REPUBLIC OF THE PHILIPPINES
SUPREME COURT
MANILA

RAUL L. LAMBINO and
ERICO B. AUMENTADO,
TOGETHER WITH 6,327,952
REGISTERED VOTERS,
Petitioners,

- versus -

G.R. No. 174153
For: Certiorari and Mandamus

COMMISSION ON ELECTIONS,
Respondent.
x----------x

MEMORANDUM

1. Petitioner RAUL L. LAMBINO, in his own behalf, together with and on behalf of the 6,327,952 registered voters whose names and signatures appear in Annexes "01100000" to "17752041" of the Amended Petition dated 29 August 2006 filed with public respondent Commission on Elections (COMELEC), through the undersigned counsel, in compliance with the Order of this Honorable Court issued in open session upon completion of the oral arguments on 26 September 2006, respectfully submit their Memorandum on the following grounds:

I. The public respondent Commission on Elections (COMELEC) committed grave abuse of discretion, in dismissing the Petition and Amended Petition for initiative on the 1987 Constitution, purportedly pursuant to the Decision dated 19 March 1997 in the case of Santiago v. COMELEC,[1] warranting the issuance of a writ of certiorari, because:

> *IA. The opinion and declaration in the Decision dated 19 March 1997 in the case of Santiago v. COMELEC, G.R. No. 127325, declaring Republic Act No. 6735 as inadequate, incomplete and insufficient in standard for subordinate legislation, must be considered only as a non-binding separate opinion of J. Davide, concurred by C.J. Narvasa, J. Bellosillo, J. Kapunan, J. Regalado, and J. Romero, and not as a binding decision of the Supreme Court En Banc, because upon the reconsideration and final resolution of these matters on 10 June 1997, no majority vote was secured to opine and declare the implementing statute as inadequate, incomplete and insufficient in standard,[2] as only six (6) Justices[3] voted that the implementing statute was inadequate, incomplete and insufficient in standard, while six (6) other Justices[4] voted that the implementing statute was adequate, complete and sufficient in standard, one (1) Justice[5] abstained on these issues, and two (2) Justices[6] inhibited themselves from the proceedings;*

[1] Santiago v. COMELEC, G.R. No. 127325, 19 March 1997.
[2] People's Initiative for Reform, Modernization and Action (PIRMA), et al, v. Commission on Elections (COMELEC), et al, G.R. No. 129754, 23 September 1997, Separate Opinion, Francisco, J., p. 9.
[3] Narvasa, C.J., Bellosillo, Davide, Jr., Kapunan, Regalado, Romero, JJ..
[4] Franciso, Hermosisima, Melo, Mendoza, Panganiban, Puno, JJ..
[5] Vitug, J..
[6] Padilla, Torres, JJ..

IB. The Resolution dated 23 September 1997 in the case of PIRMA v. COMELEC, G.R. No. 129754, dismissing a subsequent petition for initiative, cannot by itself be considered as a binding precedent, because the resolution was based on the alternative grounds of lack of grave of abuse of discretion and res judicata,[7] instead of the specific issues of adequacy and constitutionality of Republic Act No. 6735. PIRMA petition also did not carry verified signatures, while the present petition carries verified signatures;

IC. The opinion and declaration in the Decision dated 19 March 1997 in the case of Santiago v. COMELEC, G.R. No. 127325, stating that Republic Act No. 6735 is "inadequate" to implement the system of initiative, despite its acknowledged "intent" to implement this system, deviates from the basic judicial rule to ascertain and effectuate legislative intent, and stands without any precedent or authority under Philippine jurisprudence;

ID. The Constitutional provisions on initiative are essentially self-executory, and the Congressional implementation of the initiative contemplate only the appropriation of public funds for the conduct of a plebiscite and other related procedural election matters,[8] and such matters are already covered by Republic Act No. 7635 or the Initiative and Referendum Act, Republic Act No. 8189 or the Voter's Registration Act of 1996, and Republic Act No. 9336 or the General Appropriations Act for Fiscal Year 2005, re-enacted for Fiscal Year 2006, which taken together, provide for the appropriation of funds necessary to conduct a plebiscite,[9] the registration of voters,[10] the mechanics governing the verification of signatures[11] and other election procedures.

II. The public respondent COMELEC en banc failed to perform its duty to give due course to the Amended Petition for initiative on the constitution, order its publication and set the plebiscite, warranting the issuance of a writ of mandamus, because:

IIA. The COMELEC en banc and its Election Officers, have effectively declared the Amended Petition for initiative to amend the constitution, as sufficient in form and substance, warranting its publication and the setting of the plebiscite, per the COMELEC en banc Resolution dated 31 August 2006 and the 1528 certificates of verification issued by all the COMELEC Election Officers nationwide.

IIB. The "permanent injunction" in the case of Santiago v. COMELEC cannot be applied to the Amended Petition for initiative to amend the constitution because: <u>firstly</u>, under the constitutional principle of "due process,"[12] the personal nature of an action for injunction,[13] as well as the adjudicatory nature of the power of judicial review,[14] the said order must be deemed to apply only to the parties of the Santiago case, and under the "actual controversies"[15] brought before the court; <u>secondly</u>, the "permanent injunction" was discussed only in the body of the Santiago decision, and was not so ordered in the disposition; <u>thirdly</u>, the principle of stare decisis cannot be applied because the Delfin petition in the Santiago is materially different from the present petition; the Delfin petition called for the COMELEC to assist in the gathering of signatures, while the present petition calls for the conduct of a plebiscite; the PIRMA petition in the

[7] Supra PIRMA, Separate Opinion, Bellosillo, J., p. 14-18. Id., Separate Opinion, Davide, Jr., J., p. 2-3.
[8] Record of the Constitutional Commission (Con-Com), 391-392.
[9] Republic Act No. 6735, Sec. 21.
[10] Id., Sec. 6.
[11] Id., Sec. 7.
[12] 1987 Constitution, Article III, Section 1.
[13] Kean v. Harley, 179 F.2d 888 (8th Cir. 1950).
[14] 1987 Constitution, Article VIII, Section 1, Paragraph 2.
[15] Id.

PIRMA case is also materially different from the present petition; the PIRMA petition contained unverified signatures, while the present petition contains verified signatures.

III. The proposed change in form of government, involving a shift from the bicameral-presidential to the unicameral-parliamentary system of government, by way of a people's initiative, is not barred by the purported distinction between "amendment" and "revision" under the 1987 Philippine Constitution, because:

IIIA. The words "amendment" and "revision" used in the 1987 Constitution must be understood in their ordinary sense, where the former simply means "to correct,"[16] while the latter simply means "to review" in order "to correct,"[17] making a simple distinction regarding the process of making the correction, rather than a complex distinction regarding the substance or extent of the correction, because that is the natural and presumed understanding of its author who are the common people at large;[18] in another sense, the words "amendment" and "revision" used in the 1987 Constitution must be understood in their ordinary meaning which simply mean "changes," rather than in their technical meaning which may involve complex distinctions in the substance or extent of the "changes," because again that is the natural and presumed understanding of its author who are the common people at large;[19]

IIIB. Assuming without conceding that the words "amendment" and "revision" must be understood in their technical meaning, and that the common people at large are expected and presumed to know the complex distinctions in the substance or extent of the "changes," a change in form of government, involving a shift from the bicameral-presidential system to the unicameral-parliamentary system constitutes only an "amendment" of a portion and not a "revision" of the entire constitution, because it "changes" only the form of the legislative and executive branches of government under Articles VI and VII of the 1987 Constitution, and "does not change" any other portion of the constitution;

IIIC. In any case, the Supreme Court has ruled that "amendment" includes "revision," and that any technical distinction between an "amendment" or "revision" is immaterial the moment the proposed "change" is approved by the sovereign people.[20]

PREFATORY STATEMENT

2. At the outset, we believe it is of primordial importance to establish the basic premise of our position that sovereignty resides in the people.[21] Wherefore, in the exercise of its sovereignty, the Filipino people ordained and promulgated the 1987 Philippine Constitution.[22] To restate for purposes of clarity and the avoidance of ambiguity, sovereignty does not reside in the written constitution. In other words, the

[16] Webster's Third New International Dictionary of the English Language Unabridged, 2002. Black's Law Dictionary, Sixth Edition, 1990.
[17] Webster's Dictionary, supra. Black's Dictionary, supra.
[18] Id.
[19] Id.
[20] Simeon G. Del Rosario v. Ubaldo Carbonell, et al, G.R. No. L-32476, 20 October 1970. Samuel C. Occena v. Commision on Elections, et al, G.R. No. 56350, 02 April 1981.
[21] Supra Constitution, Article II, Section 1.
[22] Id, Preamble.

people do not need the prior existence of a written constitution in order to establish its inherent sovereignty. The Filipino people are the sovereign even without a written constitution. If and when the people choose to write a constitution, the written instrument is deemed to be of the people, by the people and for the people. In other words, the written constitution is deemed made for the people, and not the people made for the constitution. This statement of a fundamental principle is based essentially on the universal maxim that "**the law was made for man, and not man made for the law**."[23]

STATEMENT OF THE CASE AND OF THE FACTS

3. This is a people's petition for initiative to propose amendments to the 1987 Constitution, specifically to amend Articles VI and VII, by changing the form of government from a bicameral-presidential system to a unicameral-parliamentary system, thereby consolidating the legislative and executive branches of government into a unified political branch of government which is the parliament, and providing an Article XVIII on transitory provisions to facilitate the orderly transition.

4. The proposed amendments seek to establish an efficient, effective and accountable form of government. More particularly, the proposition intends to accomplish the following: (1) avoid the institutional gridlock between the Congress and the Office of the President through the consolidation of the legislative and executive branches of government in one unified political branch which is the parliament; (2) avoid the institutional gridlock and duplication of functions between the Senate and the House of Representatives through the consolidation of both legislative chambers into one

[23] Mark 2: 23-28. "It happened that (Jesus) was walking through standing grain on the Sabbath, and his disciples began to pull off heads of grain as they went along. At this the Pharisees protested: "Look! Why do they do a thing not permitted on the Sabbath?" He said to them: "Have you never read what David did when he was in need and he and his men were hungry? How he entered God's house in the days of Abiathar the high priest and ate the holy bread which only the priests were permitted to eat? He even gave it to his men." He then said to them: "The Sabbath was made for man, not man for the Sabbath. That is why the Son of Man is lord even of the Sabbath.""

To restate the maxim, we say that "(the law on) the Sabbath was made for man, not man for (the law on) the Sabbath." To restate further, we say that "the law was made for man, and not man made for the law."

For purposes of clarification and the avoidance of doubt, the person of Jesus is cited here as a man of wisdom, and not as a man of religion. As a man of wisdom, we cite the following:

Matthew 7: 28-29. "Jesus finished this discourse and left the crowds spellbound at his teaching. The reason was that he taught with authority and not like their scribes."

Matthew 12: 42. "At the judgment, the queen of the South will rise with the present generation and be the one to condemn it. She came from the farthest corner of the earth to listen to the wisdom of Solomon; but you have a greater than Solomon here."

unified political which is the parliament; and (3) democratize the selection process for the chief executive and the legislators, by abolishing national elections at large for the President and the Senators, which process inherently and naturally favors the rich and famous candidates, in favor of local elections for Members of Parliament, which process reasonably and naturally accommodates more candidates who need not be rich or famous.

5. Sometime during the early part of February 2006, petitioner Raul L. Lambino met a core group of leaders of peoples' organizations and local government officials, to organize and lead a movement to pursue political reforms and directly propose changes to the 1987 Constitution by way of an initiative. In the course of several meetings, the core group of leaders agreed to propose a change in form of government, involving a shift from a bicameral-presidential system to a unicameral-parliamentary system. They also agreed to name their movement as "Sigaw ng Bayan" to reflect the people's clamor for change and reform. They then drafted the original petition for initiative and accompanying signature sheet. A copy of the original draft petition for initiative consisting of eight (8) pages is attached as Exhibit "A." A copy of the draft signature sheet consisting of one (1) page is also attached as Exhibit "B."[24] Shortly thereafter, petitioner Lambino initiated the printing and reproduction of 100,000 copies of the petition for initiative and 500,000 copies of signature sheets. He also initiated the reproduction of several hundred compact disks containing soft copies of the petition for initiative and signature sheets.

6. On 15 February 2006, an estimated 10,000 representatives from various people's organizations and local government units throughout the country, led by their core group of leaders, gathered at the Ninoy Aquino Coliseum in the City of Manila, and publicly announced the launching of the Sigaw ng Bayan" movement, calling on the people to directly propose changes to the 1987 Philippine Constitution by way of a

[24] Signature Sheet: "PROPOSITION. "DO YOU APPROVE OF THE AMENDMENT OF ARTICLES VI AND VII OF THE 1987 CONSTITUTION, CHANGING THE FORM OF GOVERNMENT FROM THE PRESENT BICAMERAL-PRESIDENTIAL TO A UNICAMERAL-PARLIAMENTARY SYSTEM OF GOVERNMENT, IN ORDER TO ACHIEVE GREATER EFFICIENCY, SIMPLICITY AND ECONOMY IN GOVERNMENT, AND PROVIDING AN ARTICLE XVIII AS TRANSITORY PROVISIONS FOR THE ORDERLY SHIFT FROM ONE SYSTEM TO ANOTHER?" I hereby APPROVE the proposed amendment to the 1987 Constitution. My signature herein which shall form of the part of the petition for initiative to amend the Constitution signifies my support for the filing thereof." (underscoring supplied)

people's initiative. The movement proposed a change in form of government, involving a shift from a bicameral-presidential system to a unicameral-parliamentary system. By acclamation, the participants present designated petitioner Lambino as the spokesman of the movement. The core group of leaders then distributed in mass copies of the petition for initiative and accompanying signature sheets, as well as compact disks for further reproduction of the petition and the signature sheets.

7. Immediately thereafter, the leaders of the various people's organizations and local government units, together with thousands of volunteers including hundreds of volunteer lawyers, disseminated information regarding the movement through the mass media; conducted volunteer training seminars, assemblies and other public fora nationwide; gathered signatures supporting the petition in all the provinces and cities; and submitted to the COMELEC Election Officers the signatures gathered for their verification. In support of the information dissemination and signature gathering campaign, the movement launched its website on 08 April 2006, posting electronic copies of the petition for initiative and accompanying signature sheet, for access by the general public.

8. On 25 August 2006, upon confirmation that a sufficient number of signatures of registered voters have been verified COMELEC Election Officers, in compliance with the constitutional provisions requiring at least twelve *per centum* (12%) of the total number of registered voters, of which every legislative district is represented by at least three *per centum* (3%) of the registered voters therein, petitioner Raul L. Lambino, co-petitioner Erico B. Aumentado, in their own behalf, together with and on behalf of the 6,327,952 registered voters, filed with the COMELEC *en banc* a Petition for initiative to propose amendments to the 1987 Philippine Constitution.

9. The names and signatures of the 6,327,952 registered voters appear in Annexes "01100000" to "17752041" of the Petition dated 25 August 2006, and are incorporated by reference to the present petition. The 1528 certificates of verification issued by all the COMELEC Election Officers nationwide are attached as Annexes "1" to "1528" of the

Petition dated 25 August 2006, and are also incorporated by reference to the present petition.

10. On 30 August 2006, the petitioners Lambino and Aumentado, in their own behalf, together with and on behalf of the 6,327,952 registered voters, filed with the COMELEC *en banc* an Amended Petition for initiative to propose amendments to the 1987 Philippine Constitution. The Amended Petition dated 30 August 2006 sought to correct inadvertent clerical errors found in the Petition dated 25 August 2006, and thereby conform with the content of the original draft petition for initiative actually circulated among the signing registered voters.

11. On 31 August 2006, the COMELEC *en banc* issued a Resolution denying due course to the Amended Petition, notwithstanding its own finding that "the signatures in the instant Petition appear to meet the required minimum *per centum* of the total number of registered voters, of which every legislative district is represented by at least three *per centum* of the registered voters therein."

12. Accordingly, on 04 September 2006, petitioners Lambino and Aumentado, in their own behalf, together with and on behalf of the 6,327,952 registered voters, filed the present Petition for Certiorari and Mandamus with this Honorable Court against public respondent COMELEC.

13. Petitioner Raul L. Lambino has filed the present Petition for Certiorari and Mandamus in his own behalf, asserting his *locus standi* or legal standing as a Filipino citizen who stands to suffer "direct and personal" injury"[25] arising from the questioned Resolution of public respondent COMELEC. As stated above, petitioner Lambino is the spokesman and member of the core group of leaders of the "Sigaw ng Bayan" movement, who led the people in directly proposing amendments to the 1987 Philippine Constitution by way of a people's initiative.

14. Petitioner Lambino has also filed the present Petition for Certiorari and Mandamus in his own behalf, as a "real party in interest … who would be benefited or injured by the judgment, or the 'party entitled to the avails of the suit.'"[26] As stated

[25] See Francisco v. House of Representatives, G.R. No. 160261, 10 November 2003.
[26] Id.

above, petitioner Lambino is a petitioner in the Amended Petition for initiative to propose amendments to the 1987 Philippine Constitution filed with the public respondent COMELEC.

15. Petitioner Lambino has likewise filed the present Petition for Certiorari and Mandamus on behalf of the 6,327,9532 registered voters, as their agent or representative. As stated above, petitioner Lambino is a member of the core group of leaders of "Sigaw ng Bayan" who drafted the petition for initiative and accompanying signature sheets; caused and conducted the dissemination of information regarding the movement through the mass media and the conduct of assemblies and other public forum; caused and conducted the gathering signatures supporting the petition; and caused and undertook the submission of signatures to the COMELEC Election Officers nationwide for verification. Moreover, the present Petition for Certiorari and Mandamus is merely a continuation of the Amended Petition for initiative to propose amendments to the 1987 Philippine Constitution filed with the public respondent COMELEC. It is noteworthy that there is persuasive authority to the effect that "(t)he person who circulates the petition is the agent of the signers,"[27] and that "(t)he circulator of a petition is of the nature of an election official to whom the elector gives direction, by signing the petition, that the act shall be submitted to the people…"[28]

16. "Supplemental Arguments on Legal Standing" are discussed in Annex "A" of the present petition.

STATEMENT OF THE ISSUES

17. The issues are as follows:

(a) Whether or not the public respondent Commission on Elections (COMELEC) committed grave abuse of discretion, in dismissing the Amended Petition for initiative to amend the 1987 Constitution;

(b) Whether or not the public respondent COMELEC *en banc* failed to perform its duty to give due course to the Amended Petition for initiative to amend the 1987 Constitution, order its publication and set the plebiscite;

[27] 82 C.J.S. S131. S.D.-Morford v. Pyle, 220 N.W. 907, 53 S.D. 356.
[28] 82 C.J.S. S131. Ark.-Sturdy v. Hall, 143 S.W.2d 547, 201 Ark. 38.

(c) Whether or not the proposed change in form of government, involving a shift from the bicameral-presidential to the unicameral-parliamentary system of government, by way of a people's initiative, is barred by the purported distinction between "amendment" and "revision" under the 1987 Philippine Constitution.

ARGUMENTS

ARGUMENTS ON THE CONGRESSIONAL IMPLEMENTATION OF THE PEOPLE'S INITIATIVE

IA. The opinion and declaration in the Decision dated 19 March 1997 in the case of Santiago v. COMELEC, G.R. No. 127325, declaring Republic Act No. 6735 as inadequate, incomplete and insufficient in standard for subordinate legislation, must be considered only as a non-binding separate opinion of J. Davide, concurred by C.J. Narvasa, J. Bellosillo, J. Kapunan, J. Regalado, and J. Romero, and not as a binding decision of the Supreme Court En Banc, because upon the reconsideration and final resolution of these matters on 10 June 1997, no majority vote was secured to opine and declare the implementing statute as inadequate, incomplete and insufficient in standard,[29] as only six (6) Justices[30] voted that the implementing statute was inadequate, incomplete and insufficient in standard, while six (6) other Justices[31] voted that the implementing statute was adequate, complete and sufficient in standard, one (1) Justice[32] abstained on these issues, and two (2) Justices[33] inhibited themselves from the proceedings.

18. At the outset, it is important to note that the case of *Santiago v. COMELEC*, G.R. No. 127325, dismissed the Delfin petition based on three (3) grounds: (1) that the Delfin petition was non-compliant because it lacked the requisite supporting signatures;[34] (2) that Republic Act No. 6735 was inadequate,[35] and (3) that Republic Act No. 6735 was incomplete and insufficient in standard for subordinate legislation.[36]

---

[29] Supra PIRMA, 23 September 1997, Separate Opinion, Francisco, J., p. 9.
[30] Narvasa, C.J., Bellosillo, Davide, Jr., Kapunan, Regalado, Romero, JJ..
[31] Franciso, Hermosisima, Melo, Mendoza, Panganiban, Puno, JJ..
[32] Vitug, J..
[33] Padilla, Torres, JJ..
[34] Id., p. 22-23.
[35] Supra Santiago, 19 March 1997, p. 11-23.
[36] Id.

19. With respect to the collegial voting of the Justices of the Supreme Court *en banc*, they were unanimous on the first ground, but cast opposing votes on the second and third grounds. In view of the motion for reconsideration filed by the respondents, the Justices of the Supreme Court *en banc*, voted twice on the matter, the first on 19 March 1997 and the second on 10 June 1997.

20. The voting results among the Justices of the Supreme Court *en banc* on 19 March 1997 are summarized as follows:

Supreme Court Justice	Decision in case of Santiago v. COMELEC, G.R. No. 127325, 19 March 1997			
	Delfin is compliant	Delfin petition is non-compliant for lack of supporting signatures	R.A. 6735 is adequate to implement Art. XVII, Sec. 2 of the 1987 Constitution. The delegation of authority to the COMELEC is complete, with a standard and thus constitutional	R.A. 6735 is inadequate to implement Art. XVII, Sec. 2 of the 1987 Constitution. The delegation of authority to the COMELEC is incomplete, without a standard and thus unconstitutional
1. Bellosillo, J.		✔ (1)		✔ (1)
2. Davide, J.		✔ (2)		✔ (2)
3. Francisco, J.		✔ (3)	✔ (1)	
4. Hermosisima, Jr., J.		✔ (4)		✔ (3)
5. Kapunan, J.		✔ (5)		✔ (4)
6. Melo, J.		✔ (6)	✔ (2)	
7. Mendoza, J.		✔ (7)	✔ (3)	
8. Narvasa, C.J.		✔ (8)		✔ (5)
9. Padilla, J.	Inhibited	Inhibited	Inhibited	Inhibited
10.Panganiban, J.		✔ (9)	✔ (4)	
11. Puno, J.		✔ (10)	✔ (5)	
12. Regalado, J.		✔ (11)		✔ (6)
13. Romero, J.		✔ (12)		✔ (7)
14. Torres, Jr., J.		✔ (13)		✔ (8)
15. J. Vitug		✔ (14)	Abstain	Abstain

21. In relation to the foregoing, the voting results among the Justices of the Supreme Court *en banc* on 10 June 1997 are summarized as follows:

Supreme Court Justice	Resolution in case of Santiago v. COMELEC, G.R. No. 127325, 10 June 1997			
	Delfin is compliant	Delfin petition is	R.A. 6735 is adequate to	R.A. 6735 is inadequate to

		non-compliant for lack of supporting signatures	implement Art. XVII, Sec. 2 of the 1987 Constitution. The delegation of authority to the COMELEC is complete, with a standard and thus constitutional	implement Art. XVII, Sec. 2 of the 1987 Constitution. The delegation of authority to the COMELEC is incomplete, without a standard and thus unconstitutional
1. Bellosillo, J.		✔ (1)		✔ (1)
2. Davide, J.		✔ (2)		✔ (2)
3. Francisco, J.		✔ (3)	✔ (1)	
4. Hermosisima, Jr., J.		✔ (4)	✔ (2)	
5. Kapunan, J.		✔ (5)		✔ (3)
6. Melo, J.		✔ (6)	✔ (3)	
7. Mendoza, J.		✔ (7)	✔ (4)	
8. Narvasa, C.J.		✔ (8)		✔ (4)
9. Padilla, J.	Inhibited		Inhibited	
10. Panganiban, J.		✔ (9)	✔ (5)	
11. Puno, J.		✔ (10)	✔ (6)	
12. Regalado, J.		✔ (11)		✔ (5)
13. Romero, J.		✔ (12)		✔ (6)
14. Torres, Jr., J.	Inhibited	Inhibited	Inhibited	Inhibited
15. J. Vitug		✔ (13)	Abstain	Abstain

22. Thus, on the second and final collegial voting by the Justices of the Supreme Court *en banc*, regarding the second and third grounds of inadequacy and unconstitutionality, no majority vote was obtained. Only six (6) Justices agreed to invoke these grounds, six (6) other justices disagreed with these grounds, one (1) Justice abstained from voting on these grounds, and the two (2) remaining Justices inhibited themselves from the proceedings.

23. In connection with the voting and collegial adjudication of the second and third grounds of inadequacy and unconstitutionality in the *Santiago* case, it is useful to note the Separate Opinion of J. Francisco[37] which reads as follows:

[37] Supra PIRMA, Separate Opinion, Francisco, J.

"On March 19, 1997, the Court in G.R. No. 127325, speaking through Mr. Justice Davide, declared that " R.A. No.6735 [is] inadequate to cover the system of initiative on amendments to the Constitution and to have failed to provide sufficient standard for subordinate legislation, but nowhere did the Court declare R.A. No. 6735 as unconstitutional. A perusal of the March 19, 1997 decision starting from page 1 (title page) and ending on page 38 (dispositive portion with the Justices' signatures), in fact, shows that the Court shun from categorizing R.A. No. 6735 as an unconstitutional enactment. The probe was limited to the issue of whether or not R.A. No. 6735 is sufficient to cover an initiative on the constitution.

"In the subsequent motion for reconsideration which stressed the undisputed intent of R.A. No. 6735 to cover an initiative on the Constitution that the Court is duty bound to recognize and enforce, Mr. Justice Davide introduced the so called "completeness" and " sufficient standard" tests in his June 10,1997 ponencia to avoid such an insurmountable issue…

"The foregoing shows that the issue on the adequacy or inadequacy of R.A. No. 6735 to implement an initiative on the Constitution was dislodged from the realm of statutory construction to which it rightly belongs and brought into the sphere of constitutional law. The Court's declaration that " R.A. No. 6735 is incomplete, inadequate and wanting in essential terms and conditions" was suddenly given signification to refer " to the completeness and sufficient standard tests". Failure to hurdle this "completeness and sufficient standard tests" makes the law, R.A. No. 6735, unconstitutional. But for R.A. No. 6735 to be declared unconstitutional, certain parameters must be observed the absence of which will render the declaration infirm. And here the Constitution is unequivocal…

"As it stands, of the thirteen justices who took part in the deliberations on the issue of whether the motion for reconsideration of the March 19,1997 decision should be granted or not, only the following justices sided with Mr. Justice Davide, namely: Chief Justice Narvasa, and Justices Regalado, Romero, Bellosillo and Kapunan, Justices Melo, Puno, Mendoza, Hermosisima, Panganiban and the undersigned voted to grant the motion; while Justice Vitug "maintained his opinion that the matter was not ripe for judicial adjudication". In other words, only five, out of the other twelve justices, joined Mr. Justice Davide's June 10, 1997 ponencia finding R.A. No. 6735 ***unconstitutional*** for its failure to pass the so called " completeness and sufficiency standards" tests. Obviously, seven votes are needed to reach a "***majority***", not six. The *"concurrence of a* ***majority*** *of the members who actually took part in the deliberations"* which Article VIII, Section 4 (2) of the Constitution requires to declare a law unconstitutional was, beyond dispute, not complied with. And even assuming, for the sake of argument, that the constitutional requirement on the concurrence of the "***majority***" was initially reached in the March 19,1997 ponencia, the same is inconclusive as it was still open for review by way of a motion for reconsideration. It was only on June 10,1997 that the constitutionality of R.A. No. 6735 was settled with finally, *sans* the constitutionally required "***majority.***" The Court's declaration, therefore, is manifestly grafted with infirmity and wanting in force necessitating, in my view, the re- examination of the Court's decision in G.R. No.127325. It behooves the Court "not to tarry any longer " nor waste this opportunity accorded by this new petition (G.R. No. 129754) to relieve the Court's pronouncement from constitutional infirmity.

"Therefore, while no grave abuse of discretion can be imputed on the COMELEC in not acting on PIRMA's new petition, it is my humble submission that the instant petition presents a fitting occasion for this Court to re-examine its pronouncements in G.R. No. 127325." (underscoring supplied)

24. In connection with the foregoing, it is also useful to note the Separate Opinion of Justice Jose C. Vitug,[38] regarding the *lis mota* or *crux* of the *Santiago* case, which reads as follows:

> "The COMELEC should have dismissed, outrightly, the Delfin Petition.
>
> "It does seem to me that there is no real exigency on the part of the Court to engross, let alone to commit, itself on all the issues raised and debated upon by the parties. What is essential at this time would only be to resolve whether or not the petition filed with the COMELEC, signed by Atty. Jesus S. Delfin in his capacity as a "founding member of the Movement for People's Initiative" and seeking through a people initiative certain modifications on the 1987 Constitution, can property be regarded and given its due course. The Constitution, relative to any proposed amendment under this method, is explicit. Section 2, Article XVII, thereof provides:
>
> > "SEC. 2. Amendments to this Constitution may likewise be directly proposed by the people through initiative upon a petition of at least twelve *per centum* of the total number of registered voters, of which every legislative district must be presented by at least three *per centum* of the registered voters therein. No amendment under this section shall be authorized within five years following the ratification of this Constitution nor oftener than once every five years thereafter.
> >
> > "The Congress shall provide for the implementation of the exercise of this right."
>
> "The Delfin petition is thus utterly deficient. Instead of complying with the constitutional imperatives, the petition would rather have much of its burden passed on, in effect, to the COMELEC. The petition would require COMELEC to schedule "signature gathering all over the country; to cause the necessary publication of the petition "in newspapers of general and local circulation;" and to instruct "Municipal Election Registrars in all Regions of the Philippines to assist petitioners and volunteers in establishing signing stations at the time and on the dates designated for the purpose."
>
> "I submit, even then, that the TRO earlier issued by the Court which, consequentially, is made permanent under the *ponencia* should be held to cover only the Delfin petition and must not be so understood as having intended or contemplated to embrace the signature drive of the Pedrosas. The grant of such a right is clearly implicit in the constitutional mandate on people initiative.
>
> "The distinct greatness of a democratic society is that those who reign are the governed themselves. The postulate is no longer lightly taken as just a perceived myth but a veritable reality. The past has taught us that the vitality of government lies not so much in the strength of those who lead as in the consent of those who are led. The role of free speech is pivotal but it can only have its true meaning if it comes with the correlative end of being heard.
>
> "Pending a petition for a people's initiative that is sufficient in form and substance, it behooves the Court, I most respectfully submit, to yet refrain from resolving the question of whether or not Republic Act No. 6735 has effectively and sufficiently implemented the Constitutional provision on right of the people to directly propose constitutional amendments. Any opinion or view formulated by the Court at this point would at best be only a non-binding, albeit possibly

[38] Santiago v. Comelec, G.R. No. 127325, 19 March 1997, Justice Vitug.

> persuasive, *obiter dictum*.
>
> "I vote for granting the instant petition before the Court and for clarifying that the TRO earlier issued by the Court did not proscribe the exercise by the Pedrosas of their right to campaign for constitutional amendments." (underscoring supplied)

25. It is argued that Section 7 of Rule 56 of the Rules of Civil Procedure, supports the view that the majority vote of 8-5 on 19 March 1997, should prevail over the tied vote of 6-6 on 10 June 1997, in the case of *Santiago* case.[39]

26. The argument is erroneous. First, the cited Section 7 obviously contemplates a situation where there is no majority vote. Thus, provision should be construed to apply to the voting on 10 June 1997 and not to the voting on 19 March 1997 in the *Santiago* case. This is so because it was on 10 June 1997 that there was a lack of majority. On the other hand, there was a majority on 19 March 1997. Second, the "court" referred to in the first clause of Section 7 should be interpreted to pertain to the "court *en banc,*" and not to the entity which issued or rendered the questioned judgment or order below (i.e. COMELEC), because the entity below is not necessarily a court. This entity below can also be an administrative or quasi-judicial body. In other words, the terms "court *en banc*" and "court" are evidently used interchangeably in the provision. Third, the "court" referred to in the first clause of Section 7 should be interpreted to pertain to the "court *en banc,*" and not to the entity which issued or rendered the questioned judgment or order below (i.e. COMELEC), because otherwise there will result an absurd situation where the questioned judgment or order issued by the court or administrative body below (i.e. COMELEC), will be effectively reversed by the "court *en banc,*" even without a majority vote granting and supporting the petition for reversal. Thus, the first clause on the dismissal of the original action commenced in the court, should be construed to pertain to the original petition for prohibition filed by *Santiago* before the Supreme Court *en banc.* Fourth, the second clause of Section 7 expressly applies to "appealed cases" or those cases where the Supreme Court "reviews all the findings of law and fact" of the entity below.[40] Thus, the second clause should not be construed to apply to the *Santiago* petition for prohibition because this petition is not an appeal but an original special civil action

[39] Rosales Comment in Intervention, pages 4-5.
[40] Comments on the Rules of Court, Manuel V. Moran, 1997 Edition, Volume II, pages 703, 710.

before the Supreme Court *en banc*. Fifth, assuming that the second clause of Section 7 may be applied by analogy to an original action before the Supreme Court *en banc,* and not limited to an appeal thereto, the second clause evidently means that the questioned judgment or order shall stand affirmed. Thus, the order of the COMELEC directing Delfin to publish his petition, which order was questioned by *Santiago* before the Supreme Court *en banc*, should be construed to stand affirmed. Sixth, the third clause of Section 7 expressly applies to "incidental matters," and not to judgments or final orders. Thus, the clause may be deemed to apply to the COMELEC order directing Delfin to publish his petition, because the order pertains to an incidental matter and not to a judgment or final order. Seventh, the "petition" referred to in the third clause of Section 7 should be interpreted to pertain to the petition before the Supreme Court *en banc,* and not to the case below, because if it pertains to "incidental matters" then the case is necessarily a petition and not a complaint. On the other hand, the case below is not necessarily a petition in a special civil action or a special proceeding. It can also be a complaint in an ordinary civil action. Thus, the *Santiago* petition for prohibition filed before the Supreme Court *En Banc* should be construed to be the "petition" that ought to be denied.

27. It is argued that pursuant to the provisions of Section 4(3) of Article VIII of the 1987 Constitution and the case of *Fortich v. Corona,* the Decision of 19 March 1997 stands because there was no majority vote secured to reverse the said decision upon the resolution of the motion for reconsideration on 10 June 1997. [41]

28. The argument is erroneous. Firstly, Section 4(3) of Article VIII of the 1987 "pertains to the disposition of cases by a division." The *Santiago* Decision was not a disposition by a division. It was a disposition of the Supreme Court *en banc.* Thus, it necessarily follows that the cited Section 4(3) of Article VIII does not apply to the *Santiago* Decision. Secondly, whenever the constitutionality of a law or statute is an issue, Section 4(2) of Article VIII of the 1987 Constitution, instead applies. The *Santiago* Decision involved the issue of the constitutionality of Republic Act No. 6735, due to the alleged incompleteness and lack of standard for subordinate legislation. Thus, it

[41] Cadiz et al, Comment in Intervention, 20 September 2006, pages 30-32.

necessarily follows that the cited Section 4(2) of Article instead applies to the *Santiago* Decision. Thirdly, Section 4(2) of Article VIII of the 1987 Constitution expressly requires for a hearing *en banc* and a majority vote for a case involving the constitutionality of a law. The section expressly provides that "(a)ll cases involving the constitutionality of a … law, which shall be heard by the Supreme Court *en banc, … shall be decided with the concurrence of a majority of the Members who actually took part in the deliberations on the issues of the case and voted thereon*." (underscoring supplied) Fourthly, the case of *Fortich v. Corona* neither involves a decision by the Supreme Court *en banc* (since it was only a decision of a division), nor involves an issue of constitutionality of a law (since it was only on the issue of the power of a local government unit to reclassify land from agricultural to non-agricultural use without need for obtaining the approval of the Department of Agrarian Reform). Thus, it necessarily follows that the *Fortich* case does not apply to the *Santiago* case.

29. Regarding the requirement for a majority vote to declare a statute unconstitutional or otherwise inoperative, it is useful to note by analogy the opinion of Justice Makasiar[42] in the case of *Javellana v. Executive Secretary* which reads as follows:

> "The petitioners in L-36164 and L-36236 specifically pray for a declaration that the alleged ratification of the 1973 Constitution is null and void and that the said 1973 Constitution be declared unenforceable and inoperative.
>
> "As heretofore stated, Proclamation No. 1102 is an enactment of the President as Commander-in-Chief during martial law as directly delegated to him by Section 10(2) of Article VII of the 1935 Constitution.
>
> "A declaration that the 1973 Constitution is unenforceable and inoperative is practically deciding that the same is unconstitutional. The proposed Constitution is an act of the Constitutional Convention, which is co-equal and coordinate with as well as independent of either Congress or the Chief Executive. Hence, its final act, the 1973 Constitution, must have the same category at the very least as the act of Congress itself.
>
> "Consequently, the required vote to nullify Proclamation No. 1102 and the 1973 Constitution should be eight (8) under Section 10 of Article VIII of the 1935 Constitution in relation to Section 9 of the Judiciary Act or Republic Act No. 296, as amended, or should be ten (10) under Section 2(2) of Article X of the 1973 Constitution. Should the required vote of eight (8) or ten (10), as the case may be, for the declaration of invalidity or unconstitutionality be not achieved, the 1973 Constitution must be deemed to be valid, in force and operative."

[42] Javellana v. Executive Secretary, G.R. No. L-36142, 31 March 1973, Separate Opinion, J. Makasiar.

30. It is also argued that COMELEC Resolution No. 2300 dated 31 January 1991 is null and void, because its statutory basis Republic Act No. 6735 has been ruled as inadequate and unconstitutional in the *Santiago* case. The argument is erroneous. Firstly, the opinion and declaration in the Decision dated 19 March 1997 in the case of *Santiago v. COMELEC*, regarding the inadequacy and unconstitutionality of Republic Act No. 6735, must be considered as non-binding, because the final vote on these matters was tied at 6 for and 6 against. Secondly, the opinion and declaration in the Decision dated 19 March 1997 in the case of *Santiago v. COMELEC*, regarding the inadequacy and unconstitutionality of Republic Act No. 6735, deviates from the basic judicial rule to ascertain and effectuate legislative intent. Thirdly, the *PIRMA* resolution is not conclusive on the inadequacy and unconstitutionality of Republic Act No. 6735, because it was based on the grounds of lack of grave abuse of discretion and *res judicata*. Fourthly, Section 2, Article XVII of the 1987 Constitution, is essentially self-executory, save for the budget and other procedural election matters. No implementing statute and rules and regulations are required to create the right of initiative.

31. Under the premises, it reasonably follows that the opinion and declaration in the Decision dated 19 March 1997 in the case of *Santiago v. COMELEC*, G.R. No. 127325, declaring Republic Act No. 6735 as inadequate, incomplete and insufficient in standard for subordinate legislation, must be considered only as the separate opinion of J. Davide, concurred by C.J. Narvasa, J. Bellosillo, J. Kapunan, J. Regalado, and J. Romero, and not as the majority decision of the Supreme Court En Banc, because upon the reconsideration and final resolution of these matters on 10 June 1997, no majority vote was secured to opine and declare the implementing statute as inadequate, incomplete and insufficient in standard,[43] as only six (6) Justices[44] voted that the implementing statute was inadequate, incomplete and insufficient in standard, while six (6) other Justices[45] voted that the implementing statute was adequate, complete and sufficient in standard,

[43] Id, p. 9.
[44] Narvasa, C.J., Bellosillo, Davide, Jr., Kapunan, Regalado, Romero, JJ..
[45] Franciso, Hermosisima, Melo, Mendoza, Panganiban, Puno, JJ..

one (1) Justice[46] abstained on these issues, and two (2) Justices[47] inhibited themselves from the proceedings.

IB. The Resolution dated 23 September 1997 in the case of PIRMA v. COMELEC, G.R. No. 129754, dismissing a subsequent petition for initiative, cannot by itself be considered as a binding precedent, because the resolution was based on the alternative grounds of lack of grave of abuse of discretion and res judicata,[48] instead of the specific issues of adequacy and constitutionality of Republic Act No. 6735. PIRMA petition also did not carry verified signatures, while the present petition carries verified signatures.

32. It is argued that the Resolution dated 23 September 1997 in the subsequent but closely related case of *PIRMA v. COMELEC*,[49] dismissing the petition for initiative with prayer for verification of the supporting signatures, purportedly affirms the prior opinion and declaration dated 19 March 1997 in the case of *Santiago v. COMELEC*,[50] that Republic Act No. 6735 was inadequate, incomplete and insufficient in standard for subordinate legislation.

33. A reading of the minute resolution (dismissing the petition for certiorari) by a unanimous vote of 13-0 however shows that the dismissal of this petition did not result from any determinative adjudication of the specific issues in question.[51] The resolution merely cited the ground of lack of grave abuse of discretion on the part of COMELEC because "it only complied with the dispositions in the Decision of this Court in G.R. No. 127325, promulgated on March 19, 1997, and its Resolution of June 10, 1997."[52]

34. Based on the language of the resolution, it is only reasonable to conclude that the Supreme Court En Banc then considered the *PIRMA* case as merely a continuation of *Santiago* case because it spoke about compliance with the dispositions of the *Santiago* case. It may be noted that only parties to a case involving a personal action[53] submitted to

---

[46] Vitug, J..
[47] Padilla, Torres, JJ..
[48] Supra PIRMA, Separate Opinion, Bellosillo, J., p. 14-18. Id., Separate Opinion, Davide, Jr., J., p. 2-3.
[49] Supra PIRMA.
[50] Supra Santiago, 19 March 1997.
[51] Id.
[52] Id.
[53] Kean v. Harley, 179 F.2d 888 (8th Cir. 1950).

a court for judicial adjudication, can be bound by the dispositions of the court that acquires jurisdiction over the "actual controversies involving rights which are legally demandable and enforceable."[54] In other words, there is no such thing as a "permanent injunction" that purports to operate as an injunction against the whole world, or that otherwise purports to apply automatically to all future cases or controversies not yet filed before the court.

35. It is also worthy to note that in the *Santiago* case, the spouses Alberto Pedrosa and Carmen Pedrosa were expressly joined and impleaded in their representative capacities[55] as "founding members of the People's Initiative for Reforms, Modernization and Action (PIRMA)." Their representative capacities were evident from their designation as "founding members" of PIRMA. If they were sued in their personal capacities, there would have no such designation. In the *PIRMA* case, the organization PIRMA itself was of course the named petitioner. In both the *Santiago* and *PIRMA* cases, PIRMA was represented by the same counsel Atty. Pete Quirino-Quadra. It is also important to note that both the *Santago* and *PIRMA* cases essentially involved the same constitutional proposition for the lifting of term limits for national and local elective officials.

36. Thus, Justices Davide and Bellosillo, 2 of the 6 Justices who voted that Republic Act No. 6735 was inadequate and unconstitutionality, explained in their separate opinions that the *PIRMA* case was barred by the principle of *res judicata* for being merely a continuation of the old petition.[56]

37. The only other matter raised in the *PIRMA* case was whether or not the Supreme Court En Banc should re-examine the prior declaration and opinion rendered in the *Santiago* case on the specific issues of inadequacy or unconstitutionality of Republic Act No. 6735. By a majority vote of 8-5, the Supreme Court En Banc resolved not to re-examine these issues. Seven (7) Justices voted that "there was no need to take it up."[57]

---

[54] 1987 Constitution, Article VIII, Section 1, Paragraph 2.
[55] Rules of Court, Rule 3, Section 3.
[56] PIRMA v. COMELEC, G.R. No. 129754, 23 September 1997, Justice Davide, Jr., Separate Opinion. PIRMA v. COMELEC, supra, Justice Bellosillo, Separate Opinion.
[57] Resolution of the Supreme Court En Banc dated September 23, 1997, G.R. No. 129754 (People's Initiative for Reform, Modernization and Action (PIRMA), et al, v. Commission on Elections, et al.

Justice Vitug agreed that there was no need to take it up, and qualified his vote with the reason that "the case at bar (was) not the proper vehicle for that purpose."[58] Five (5) Justices voted that "there was need for such a re-examination."[59]

38. To understand the meaning of this 8-5 voting on re-examination, the prior contentious voting tied at 6-6 on the specific issues of inadequacy and unconstitutionality of Republic Act No. 6735 should be taken into account. By harmonizing the content of both final resolutions in the *PIRMA* and *Santiago* cases, it reasonably follows that there was no affirmation of a prior declaration and opinion that Republic Act No. 6735 was inadequate and unconstitutional, because in the first place there was no such binding declaration and opinion.

39. The voting results among the individual Justices of the Supreme Court *en banc* on 23 September 1997 are summarized as follows:

Supreme Court Justice	Resolution in case of PIRMA v. COMELEC, G.R. No. 129754, 23 September 1997			
	COMELEC resolution dismissing PIRMA petition with grave abuse of discretion	COMELEC resolution dismissing PIRMA petition without grave abuse of discretion*	Need to re-examine the ruling in Santiago v. COMELEC regarding R.A. 6735	No need to re-examine the ruling in Santiago v. COMELEC regarding R.A. 6735
1. Bellosillo, J.		✔ (1)**		✔ (1)
2. Davide, J.		✔ (2)**		✔ (2)
3. Francisco, J.		✔ (3)	✔ (1)	
4. Hermosisima, Jr., J.		✔ (4)	✔ (2)	
5. Kapunan, J.		✔ (5)		✔ (3)
6. Melo, J.		✔ (6)	✔ (3)	
7. Mendoza, J.	Leave	Leave	Leave	Leave
8. Narvasa, C.J.		✔ (7)		✔ (4)
9. Padilla, J.	Inhibited	Inhibited	Inhibited	Inhibited
10. Panganiban, J.		✔ (8)	✔ (4)	
11. Puno, J.		✔ (9)	✔ (5)	
12. Regalado, J.		✔ (10)		✔ (5)
13. Romero, J.		✔ (11)		✔ (6)
14. Torres, Jr., J.		✔ (12)		✔ (7)
15. J. Vitug		✔ (13)***		✔ (8)****

* "(O)nly complied with the dispositions in the Decision of this Court in G.R. No. 127325, promulgated on March 19, 1997, and its Resolution of June 10, 1997."
** Case at bar is barred by *res judicata*.
*** Case at bar is not barred by the "law of the case."

[58] Id.
[59] Id.

**** "(C)ase at bar is not the proper vehicle for that purpose (re-examination)."

40. We also note that even as the new petition lodged by Pirma with the COMELEC *En Banc* contained the supporting signatures, these signatures were not yet verified by the COMELEC election registrars at the time of the filing of the new petition.

41. Under the premises, it reasonably follows that the Resolution dated 23 September 1997 in the case of *PIRMA v. COMELEC,* G.R. No. 129754, dismissing a subsequent petition for initiative, cannot by itself be considered as a binding precedent on the present petition, with respect to the specific issues of the adequacy and constitutionality of Republic Act No. 6735, because the resolution was based on the alternative grounds of lack of grave of abuse of discretion and *res judicata*,[60] instead of the said specific issues. Furthermore, the petition in the *PIRMA* case is substantially different from the present petition, because the former did not yet carry verified signatures, while the latter already carries verified signatures.

IC. The opinion and declaration in the Decision dated 19 March 1997 in the case of Santiago v. COMELEC, G.R. No. 127325, stating that Republic Act No. 6735 is "inadequate" to implement the system of initiative, despite its acknowledged "intent" to implement this system, deviates from the basic judicial rule to ascertain and effectuate legislative intent, and stands without any precedent or authority under Philippine jurisprudence.

42. The opinion and declaration in the Decision dated 19 March 1997 of the case of *Santiago v. COMELEC,* G.R. No. 127325, in connection with the matter of the Congressional implementation of the constitutional provisions on initiative, reads as follows:

> "We agree that R.A. No. 6735 was, as its history reveals, intended to cover initiative to propose amendments to the Constitution. The Act is a consolidation of House Bill No. 21505 and Senate Bill No. 17. The former was prepared by the Committee on Suffrage and Electoral Reforms of the House of Representatives on the basis of two House Bills referred to it, viz., (a) House Bill No. 497, 47 which dealt with the initiative and referendum mentioned in Sections 1 and 32 of Article VI of the Constitution; and (b) House Bill No. 988, 48 which dealt with the subject matter of House Bill No. 497, as well as with initiative and referendum under Section 3 of Article X (Local Government) and initiative provided for in

[60] Supra PIRMA, Separate Opinion, Bellosillo, J., p. 14-18. Id., Separate Opinion, Davide, Jr., J., p. 2-3.

> Section 2 of Article XVII of the Constitution. Senate Bill No. 17 49 solely dealt with initiative and referendum concerning ordinances or resolutions of local government units. The Bicameral Conference Committee consolidated Senate Bill No. 17 and House Bill No. 21505 into a draft bill, which was subsequently approved on 8 June 1989 by the Senate 50 and by the House of Representatives. 51 This approved bill is now R.A. No. 6735.
>
> "But is R.A. No. 6735 a full compliance with the power and duty of Congress to "provide for the implementation of the exercise of the right?"
>
> "A careful scrutiny of the Act yields a negative answer.
>
> "First. Contrary to the assertion of public respondent COMELEC, Section 2 of the Act does not suggest an initiative on amendments to the Constitution… The inclusion of the word "Constitution" therein was a delayed afterthought. That word is neither germane nor relevant to said section, which exclusively relates to initiative and referendum on national laws and local laws, ordinances, and resolutions. That section is silent as to amendments on the Constitution…
>
> "Second. It is true that Section 3 (Definition of Terms) of the Act defines initiative on amendments to the Constitution and mentions it as one of the three systems of initiative, and that Section 5 (Requirements) restates the constitutional requirements as to the percentage of the registered voters who must submit the proposal. But unlike in the case of the other systems of initiative, the Act does not provide for the contents of a petition for initiative on the Constitution. Section 5, paragraph (c) requires, among other things, statement of the proposed law sought to be enacted, approved or rejected, amended or repealed, as the case may be. It does not include, as among the contents of the petition, the provisions of the Constitution sought to be amended, in the case of initiative on the Constitution…
>
> "Third. While the Act provides subtitles for National Initiative and Referendum (Subtitle II) and for Local Initiative and Referendum (Subtitle III), no subtitle is provided for initiative on the Constitution. This conspicuous silence as to the latter simply means that the main thrust of the Act is initiative and referendum on national and local laws. If Congress intended R.A. No. 6735 to fully provide for the implementation of the initiative on amendments to the Constitution, it could have provided for a subtitle therefor, considering that in the order of things, the primacy of interest, or hierarchy of values, the right of the people to directly propose amendments to the Constitution is far more important than the initiative on national and local laws."

43. Thus, while the cited opinion and declaration expressly acknowledged that Republic Act No. 6735 was intended to implement the constitutional provisions on initiative, it nonetheless declined to implement this acknowledged legislative intent, based on strained arguments regarding imperfections in the English language employed by the statutory law. The opinion is incomprehensible regardless of how one reads it. **It cites no precedent or authority because in reality there is none**.

44. In this regard, it is useful to note the Separate Opinion of J. Puno[61] which reads as follows:

> "Since it is crystalline that the intent of R.A. No. 6735 is to implement the people's initiative to amend the Constitution, it is our bounden duty to interpret the law as it was intended by the legislature. We have ruled that once intent is ascertained, it must be enforced even if it may not be consistent with the strict letter of the law and this ruling is as old as the mountain. We have also held that where a law is susceptible of more than one interpretation, that interpretation which will most tend to effectuate the manifest intent of the legislature will be adopted. *United States v. Toribio, G.R. No. 5060, 26 January 1910. United States v. Navarro, G.R. No. L-6160, 21 March 1911.*
>
> "The text of R.A. No. 6735 should therefore be reasonably construed to effectuate its intent to implement the people's initiative to amend the Constitution. To be sure, we need not torture the text of said law to reach the conclusion that it implements people's initiative to amend the Constitution. R.A. No. 6735 is replete with references to this prerogative of the people.
>
> "First, the policy statement declares:
>
> > "Sec. 2. Statement of Policy. -- The power of the people under a system of initiative and referendum to directly propose, enact, approve or reject, in whole or in part, the Constitution, laws, ordinances, or resolutions passed by any legislative body upon compliance with the requirements of this Act is hereby affirmed, recognized and guaranteed." (emphasis supplied)
>
> "Second, the law defines "initiative" as "the power of the people to propose amendments to the Constitution or to propose and enact legislations through an election called for the purpose," and "plebiscite" as "the electoral process by which an initiative on the Constitution is approved or rejected by the people."
>
> "Third, the law provides the requirements for a petition for initiative to amend the Constitution. Section 5(b) states that "(a) petition for an initiative on the 1987 Constitution must have at least twelve per centum (12%) of the total number of registered voters as signatories, of which every legislative district must be represented by at least three per centum (3%) of the registered voters therein." It also states that "(i)nitiative on the Constitution may be exercised only after five (5) years from the ratification of the 1987 Constitution and only once every five (5) years thereafter."
>
> "Finally, R.A. No. 6735 fixes the effectivity date of the amendment. Section 9(b) states that "(t)he proposition in an initiative on the Constitution approved by a majority of the votes cast in the plebiscite shall become effective as to the day of the plebiscite."
>
> "It is unfortunate that the majority decision resorts to a strained interpretation of R.A. No. 6735 to defeat its intent which it itself concedes is to implement people's initiative to propose amendments to the Constitution. Thus, it laments that the word "Constitution" is neither germane nor relevant to the policy thrust of section 2 and that the statute's subtitling is not accurate. These lapses are to be expected for laws are not always written in impeccable English. Rightly, the Constitution does not require our legislators to be word-smiths with the ability to write bills with poetic commas like Jose Garcia Villa or in lyrical prose like

[61] Id, Concurring and Dissenting Opinion, 19 March 1997, Puno, J.

Winston Churchill. But it has always been our good policy not to refuse to effectuate the intent of a law on the ground that it is badly written. As the distinguished Vicente Francisco reminds us: "Many laws contain words which have not been used accurately. But the use of inapt or inaccurate language or words, will not vitiate the statute if the legislative intention can be ascertained. The same is equally true with reference to awkward, slovenly, or ungrammatical expressions, that is, such expressions and words will be construed as carrying the meaning the legislature intended that they bear, although such a construction necessitates a departure from the literal meaning of the words used."

"In the same vein, the argument that R.A. No. 7535 does not include people's initiative to amend the Constitution simply because it lacks a sub-title on the subject should be given the weight of helium. Again, the hoary rule in statutory construction is that headings prefixed to titles, chapters and sections of a statute may be consulted in aid of interpretation, but inferences drawn therefrom are entitled to very little weight, and they can never control the plain terms of the enacting clauses.

"All said, it is difficult to agree with the majority decision that refuses to enforce the manifest intent or spirit of R.A. No. 6735 to implement the people's initiative to amend the Constitution. It blatantly disregards the rule cast in concrete that the letter of the law must yield to its spirit for the letter of the law is its body but its spirit is its soul."

Consistent with the foregoing, J. Puno[62] further opines as follows:

"**The first overriding concern is the need to recognize the clear intent of Congress in enacting R.A No. 6735.** In my concurring and dissenting opinion, I quoted extensively the deliberations of the members of the House of Representatives on H.B. No.21505 to stress that their intent was to implement the provisions of the 1987 Constitution giving the people the power to amend our fundamental law thru people's initiative. Petitioner-intervenor, Roco, one of the principal authors of H.B. No. 21505, confirmed this intent in all his pleadings in the case at bar…

"**The second overriding concern is the need to comply with our traditional duty to interpret R.A. No.6735 to effectuate its intent.** R.A No. 6735 represents the wisdom and the will of two co-equal branches of government- the Legislative and the Executive. Due respect to these two branches of government demands that we utilize all rules of statutory construction to effectuate R.A. No. 6735. It has been the teaching of this Court for ages that when a law admits of two interpretations, one that will sustain it and another that will invalidate it, the interpretation that will save the law should be adopted.

"To stress once more, there is no question that the intent of R.A. No. 6735 is to implement the right of the people through initiative to propose amendments to the Constitution. Its validity is questioned, however, on the ground that its key provisions relating to what a petition should contain fails to mention constitutional amendments and appears to be limited to ordinary legislation proposed for enactment, approval or rejection. (E.g., Sec.5 (c) and subtitle II)

"**No reason has been advanced why these provisions cannot be construed to apply to proposed constitutional amendments.** No reason has been shown for restrictively and literally construing these provisions as applicable to ordinary legislation only. On the other hand, the established rule in the interpretation of

[62] Id, 10 June 1997, Separate Opinion, Puno, J.

statutes is for courts to seek the legislative intention and give it effect. **The inadequacy of a statute is not a ground for invalidating it. Given the lawfulness of the legislative purpose to implement the constitutional provision on initiative to amend the Constitution, it is not for this Court to say how well the statute succeeds in attaining that purpose.** "With the wisdom of the policy adopted, with the adequacy or practicality of the law enacted to forward it, the courts are both incompetent and unauthorized to deal."

"**The third overriding concern is the need to avoid the danger of over-checking the power of Congress to make laws which will put in peril the fundamental principle of separation of powers.** The Constitution vested in Congress the power to make laws. The power of Congress to make laws is **plenary** in nature. The legislature is accorded the widest latitude in lawmaking to meet the fluctuating problems of our people. It cannot be gainsaid that our legislators are more keenly aware of these problems for they are in closer contact with our people. They have better access to facts to solve these problems. They are also expected to respond adequately to our people's problems for they have to account to the people come election day. A more chastened recognition of the policy-making role of Congress should compel this Court to exercise extreme care and caution before imposing any **new limitation** on its power to make laws.

"**From time immemorial, courts have only invalidated laws that offend the Constitution.** The limits of the judicial power to invalidate laws are no longer open to doubt and debate. In this jurisdiction, as early as 1927 in the seminal case of **Government v. Springer**,[63] Mr. Justice Johnson's concurring opinion authoritatively laid down its metes and bounds, thus:

> "x x x
>
> "It is conceded by all of the eminent authorities upon constitutional law that the courts have authority to finally determine what are the respective powers of the different departments of government.
>
> "The question of the validity of every statute is first determined by the legislative department of the Government, and the courts will resolve every presumption in favor of its validity. Courts are not justified in adjudging a statute invalid in the face of the conclusions of the legislature, when the question of its validity is at all doubtful. The courts will assume that the validity of a statute was fully considered by the legislature when adopted. **Courts will not presume a statute invalid unless it clearly appears that it falls within some of the inhibitions of the fundamental laws of the state.** The wisdom or advisability of a particular statute is not a question for the courts to determine. If a particular statute is within the constitutional power of the legislature to enact, it should be sustained whether the courts agree or not in the wisdom of its enactment. If the statute covers subjects not authorized by the fundamental laws of the land, or by the constitution, then the courts are not only authorized but are justified in pronouncing the same illegal and void, no matter how wise or beneficient such legislation may seem to be. Courts are not justified in measuring their opinions with the opinion of the legislative department of the Government, as expressed in statutes, upon questions of the wisdom, justice and advisability of a particular law. In exercising the high authority conferred upon the courts to pronounce valid or invalid a particular statute, they are only the administrators of the public will, as expressed in the fundamental law of the land. **If an act of the legislature is to be held**

[63] Government of the Philippine Islands, v. Milton E. Springer, et al, G.R. No. 26979, 01 April 1927, 50 Phil. 259.

> **illegal, it is not because the judges have any control over the legislative power, but because the act is forbidden by the fundamental law of the land and because the will of the people, as declared in such fundamental law, is paramount and must be obeyed, even by the legislature.** In pronouncing a statute illegal, the courts are simply interpreting the meaning, force, and application of the fundamental law of the state. (Case vs. Board of Health and Heiser, 24 Phil. 250,251.)
>
> "The judicial department of the Government may examine every law enacted by the legislative branch of the Government when the question is properly presented for the purpose of ascertaining:
>
> (a) Whether or not such law came within the subject matter upon which the legislative branch of the Government might legislate; and
> (b) Whether the provisions of such law were in harmony with the authority given the legislature.
>
> **"If the judicial branch of the Government finds (a) that the legislative or executive branches of the Government had authority to act upon the particular subject, and (b) that the particular law contained no provisions in excess of the power of such department and the acts of the executive were within his powers, then that investigation, or that conclusion, conclusively terminates the investigation by the judicial department of the Government.**

"Former Chief Justice Enrique Fernando similarly posits the view that a law can be invalidated **only** if Congress exceeds the **substantive or formal** limitations of its legislative power as spelled out in the Constitution, viz:

> "The legislative power, while comprehensive, is not unlimited. It cannot be where constitutionalism prevails. **Such limitations may be substantive or formal.** They belong to the former category when they refer to the subject matter of legislation. They may be either implied or express. Implied substantive limitations are embodied in such doctrines as the prohibition against the passage of irrepealable laws and the prohibition of the delegation of legislative power. The Bill of Rights embodies such express limitation. Then too there may be other provisions that limit specific powers of the National Assembly. An example is the requirement of uniformity for taxing statutes. Formal limitations refer to the procedural requirements in the enactment of legislation. Thus, no bill shall become a law unless it has passed three readings on separate days and printed copies thereof in its final form have been distributed to the members of the National Assembly three days before its passage except when the Prime Minister certifies to the necessity of its immediate enactment to meet a public calamity or emergency.

"In the case at bar, R.A. No. 6735 is not assailed by the majority as unsconstitutional for failure of Congress to follow the substantive requirements of lawmaking. It even concedes that Congress enacted the law in compliance with its duty to implement the provision of the Constitution granting the people the right to amend our fundamental law thru people's initiative. It goes without saying that the subject matter of R.A. No. 6735 is within the compass of the power of Congress to legislate. Nor does the majority strike down R.A. No. 6735 on the ground that Congress breached any of the formal procedural steps in enacting a law. Since it is uncontested that Congress did not violate any of the substantive or formal requirements of lawmaking in enacting R.A. No. 6735, this Court has **no**

> **option** but to effectuate the same. This is our consistent stance in the past. There is no reason to be inconsistent now.
>
> "**The majority has broken all precedents when it did not find R.A. No. 6735 as unconstitutional yet refused to validate it. It relies on a reason unrecognized by existing jurisprudence**, i.e., that Congress inadequately expressed its intent in drafting R.A. No. 6735. In so doing, intervenor Roco observed that this Court "has created a third specie of invalid laws, a **mongrel** type of constitutional but inadequate and, therefore, invalid law."
>
> "The Roco observation should raise our antennas. In letting loose this "**mongrel**" type of invalid laws, **the Court has over- extended its checking power against Congress**. This mongrel endangers the principle of separation of powers, a touchstone of our Constitution. **The power of Congress to make laws includes the power how to write laws.** The Court has the power to review the constitutionality of laws but it has no authority to act as if it is the committee on style of Congress. The Court has the power to interpret laws but the principal purpose in existing this power is to discover and enforce legislative intent. We should heed the warning of Crawford that **if courts ignore the intent of the legislative, they would invade the legislative sphere and violate the tripartite theory of government**. The balance of power among the executive, legislative and judicial branches of our government was fixed with pinpoint precision by the farmers of our fundamental laws. The Constitution did not give the Court the power to alter this balance especially to alter it in its favor. **Unless allowed by the Constitution, a non- elected court cannot assume powers which will make it more than the equal of an elected legislature or an elected executive**."

45. Under the premises, it reasonably follows that the opinion and declaration in the Decision dated 19 March 1997 in the case of *Santiago v. COMELEC*, G.R. No. 127325, stating that Republic Act No. 6735 is "inadequate" to implement the system of initiative, despite its acknowledged "intent" to implement this system, deviates from the basic rule to ascertain and effectuate legislative intent, and stands without any precedent or authority under Philippine jurisprudence.

ID. The Constitutional provisions on initiative are essentially self-executory, and the Congressional implementation of the initiative contemplate only the appropriation of public funds for the conduct of a plebiscite and other related procedural election matters,[64] *and such matters are already covered by Republic Act No. 7635 or the Initiative and Referendum Act, Republic Act No. 8189 or the Voter's Registration Act of 1996, and Republic Act No. 9336 or the General Appropriations Act for Fiscal Year 2005, re-enacted for Fiscal Year 2006, which taken together, provide for the appropriation of funds necessary to*

[64] Record of the Constitutional Commission (Con-Com), 391-392.

conduct a plebiscite,[65] the registration of voters,[66] the mechanics governing the verification of signatures[67] and other election procedures.

46. The provisions of the 1987 Constitution governing changes to the fundamental law through the mode of a people's initiative[68] provide as follows:

> "Section 1. Any amendment to, or revision of, this Constitution may be proposed by: (1) The Congress, upon a vote of three-fourths of all its Members; or (2) A constitutional convention.
>
> "Section 2. Amendments to this Constitution may likewise be directly proposed by the people through initiative upon a petition of at least twelve per centum of the total number of registered voters, of which every legislative district must be represented by at least three per centum of the registered votes therein. No amendment under this section shall be authorized within five years following the ratification of this Constitution nor oftener than once every five years thereafter.
>
> "The Congress shall provide for the implementation of the exercise of this right.
>
> Section 3. The Congress may, by a vote of two-thirds of all its Members, call a constitutional convention, or by a majority vote of all its Members, submit to the electorate the question of calling such a convention.
>
> Section 4. Any amendment to, or revision of, this Constitution under Section 1 hereof shall be valid when ratified by a majority of the votes cast in a plebiscite which shall be held not earlier than sixty days nor later than ninety days after the approval of such amendment or revision.
>
> Any amendment under Section 2 hereof shall be valid when ratified by a majority of the votes cast in a plebiscite which shall be held not earlier than sixty days nor later than ninety days after the certification by the Commission on Elections of the sufficiency of the petition. (underscoring supplied)

47. We also note the provisions of the 1987 Constitution mandating the Commission on Elections to implement laws and promulgate rules governing or affecting changes to the fundamental law through the mode of a people's initiative[69] which provide as follows:

---

[65] Republic Act No. 6735, Sec. 21.
[66] Id., Sec. 6.
[67] Id., Sec. 7.
[68] 1987 Constitution, Article XVII, Amendments or Revisions

[69] Id, Articles IXA & IXC, Commission on Elections.

"A. COMMON PROVISIONS

"Section 1. The Commissions, which shall be independent, are the Civil Service Commission, the Commission on Elections, and the Commission on Audit…

"Section 5. The Commission shall enjoy fiscal autonomy. Their approved annual appropriations shall be automatically and regularly released.

"Section 6. Each Commission *en banc* may promulgate its own rules concerning pleadings and practice before it or before any of its offices. Such rules however shall not diminish, increase, or modify substantive rights…

"Section 8. Each Commission shall perform such other functions as may be provided by law…

"C. COMMISSION ON ELECTIONS

"Section 2. The Commission on Elections shall exercise the following powers and functions:

"(1) Enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum, and recall…

"Section 3. The Commission on Elections may sit *en banc* or in two divisions, and shall promulgate its rules of procedure in order to expedite disposition of election cases, including pre-proclamation controversies…

"Section 11. Funds certified by the Commission as necessary to defray the expenses for holding regular and special elections, plebiscites, initiatives, referenda, and recalls, shall be provided in the regular or special appropriations and, once approved, shall be released automatically upon certification by the Chairman of the Commission. (underscoring supplied)

48. Thus, the 1987 Constitution directly and expressly provides for the following matters in connection with a people's initiative to amend the fundamental law:

(a) that the people's initiative shall be exercised through a "petition;"[70]

(b) that the petition must be supported by "at least twelve per centum of the total number of registered voters, of which every legislative district must be represented by at least three per centum of the registered votes therein;"[71]

(c) that no amendment shall be authorized "oftener than once every five years;[72]

(d) that the amendment shall be "valid when ratified by a majority of the votes cast in a plebiscite;"[73]

[70] Id, Article XVII, Sec. 1.
[71] Id, Article XVII, Sec. 2.
[72] Id., Sec. 2.
[73] Id., Sec. 4.

(e) the amendment shall take effect "when ratified by a majority of the votes cast in a plebiscite;"[74]

(f) that the "plebiscite … shall be held not earlier than sixty days nor later than ninety days after the certification by the Commission on Elections of the sufficiency of the petition;"[75]

(g) that the Commission on Elections shall "(e)nforce and administer all laws and regulations relative to the conduct of (a) plebiscite, initiative;"[76]

(h) that the Commission on Elections *en banc* may "promulgate its own rules concerning pleadings and practice before it or before any of its offices;"[77] and

(i) that the "(f)unds certified by the Commission as necessary to defray the expenses for holding … plebiscites, initiatives … shall be provided in the regular or special appropriations and, once approved, shall be released automatically upon certification by the Chairman of the Commission."[78]

49. In relation to the foregoing, the 1987 Constitution mandates Congress to "provide for the implementation of the exercise of (the) right (of people's initiative)."[79] With respect to this mandate, it is important to note that the interpellations on Section 2, Article XVII of the 1987 Constitution clearly show that these provisions essentially contemplate only the appropriation of public funds for the conduct of a plebiscite, as well as the provision of related procedural election matters, without diminishing the people's substantive right of initiative. The pertinent records read[80] as follows:

> "FR. BERNAS. Madam President, just two simple, clarificatory questions.
>
> First, on Section 1 on the matter of initiative upon petition of at least 10 percent, there are no details in the provision on how to carry this out. Do we understand, therefore, that we are leaving this matter to the legislature?
>
> MR. SUAREZ. That is right, Madam President.
>
> FR. BERNAS. And do we also understand, therefore, that for as long as the legislature does not pass the necessary implementing law on this, this will not operate?

---

[74] Id.
[75] Id., Article XVII, Sec. 4.
[76] Id., Article IXC, Sec. 2(1).
[77] Id., Article IXA, Sec. 6.
[78] Id., Article IXC, Sec. 11.
[79] Id., Article XVII, Sec. 2.
[80] Supra Record of Con-Com.

MR. SUAREZ. That matter was also taken up during the committee hearing, especially with respect to the budget appropriations which would have to be legislated so that the plebiscite could be called. We deemed it best that this matter be left to the legislature. The Gentleman is right. In any event, as envisioned, no amendment through the power of initiative can be called until after five years from the date of the ratification of this Constitution. Therefore, the first amendment that could be proposed through the exercise of this initiative power would be after five years. It is reasonably expected that within that five-year period, the National Assembly can come up with the appropriate rules governing the exercise of this power.

FR. BERNAS. Since the matter is left to the legislature - the details on how this is to be carried out - is it possible that, in effect, what will be presented to the people for ratification is the work of the legislature rather than of the people? Does this provision exclude that possibility?

MR. SUAREZ. No, it does not exclude that possibility because even the legislature itself as a body could propose that amendment, maybe individually or collectively, if it fails to muster the three-fourths vote in order to constitute itself as a constituent assembly and submit that proposal to the people for ratification through the process of an initiative.

x x x

MS. AQUINO. Do I understand from the sponsor that the intention in the proposal is to vest constituent power in the people to amend the Constitution?

MR. SUAREZ. That is absolutely correct, Madam President.

MS. AQUINO. I fully concur with the underlying precept of the proposal in terms of institutionalizing popular participation in the drafting of the Constitution or in the amendment thereof, but I would have a lot of difficulties in terms of accepting the draft of Section 2, as written. Would the sponsor agree with me that in the hierarchy of legal mandate, constituent power has primacy over all other legal mandates?

MR. SUAREZ. The Commissioner is right, Madam President.

MS. AQUINO. And would the sponsor agree with me that in the hierarchy of legal values, the Constitution is source of all legal mandates and that therefore we require a great deal of circumspection in the drafting and in the amendments of the Constitution?

MR. SUAREZ. That proposition is nondebatable.

MS. AQUINO. Such that in order to underscore the primacy of constituent power we have a separate article in the constitution that would specifically cover the process and the modes of amending the Constitution?

MR. SUAREZ. That is right, Madam President.

MS. AQUINO. Therefore, is the sponsor inclined, as the provisions are drafted now, to again concede to the legislature the process or the requirement of determining the mechanics of amending the Constitution by people's initiative?

MR. SUAREZ. The matter of implementing this could very well be placed in the hands of the National Assembly, not unless we can incorporate into this provision the mechanics that would adequately cover all the conceivable situations." (underscoring supplied)

50. Consistent with the foregoing, and in compliance with its constitutional mandate, the Congress enacted the following laws, which taken together, implement the constitutional provisions on initiative:

(a) *Republic Act No. 6735 known as "The Initiative and Referendum Act"*

"Sec. 2. Statement of Policy.- The power of the people under a system of initiative and referendum to directly propose, enact, approve or reject, in whole or in part, the Constitution, laws, ordinances, or resolutions passed by any legislative body upon compliance with the requirements of this Act is hereby affirmed, recognized and guaranteed…

"Sec. 6. Special Registration. — The Commission on Election shall set a special registration day at least three (3) weeks before a scheduled initiative or referendum.

"Sec. 7. Verification of Signatures.- The Election Registrar shall verify the signatures on the basis of the registry list of voters, voters' affidavits and voters identification cards used in the immediately preceding election…

"Sec. 8. Conduct and Date of Initiative or Referendum. — The Commission shall call and supervise the conduct of initiative or referendum.

"Within a period of thirty (30) days from receipt of the petition, the Commission shall, upon determining the sufficiency of the petition, publish the same in Filipino and English at least twice in newspapers of general and local circulation…

"Sec. 21. Appropriations.- The amount necessary to defray the cost of the initial implementation of this Act shall be charged against the Contingent Fund in the General Appropriations Act of the current year. Thereafter, such sums as may be necessary for the full implementation of this Act shall be included in the annual General Appropriations Act. (underscoring supplied)

(b) *Republic Act No. 8189 known as the "Voter's Registration Act of 1996"*

"Section 4.- "Permanent List of Voters. — There shall be a permanent list of votes per precinct in each city or municipality consisting of all registered voters residing within the territorial jurisdiction of every precinct indicated by the precinct maps.

"Such precinct-level list of voters shall be accompanied by an addition/deletion list for the purpose of updating the list…"

(c) *Republic Act No. 9336 known as the General Appropriations Act, Fiscal Year 2005, re-enacted for Fiscal Year 2006*

"XXXI. COMMISSION ON ELECTIONS
1. Special Audit. The appropriations authorized herein for the Commission for registration, plebiscite, referendum and election purposes shall be used exclusively for the purpose for which these are intended. Special Audit shall be undertaken by the COA on all expenses for printing jobs, materials and paraphernalia to be used for registration, plebiscite, referendum and election purposes. Copies of the COA report shall be furnished the Legislature within one month after such audit…"

"XXXIX. CONTINGENT FUND
Special Provision(s)
1. Administration of the Fund. The amount authorized herein shall be administered by the Office of the President. No amount shall be released and disbursed without the prior approval of the President of the Philippines.
2. Use of the Fund. The amount appropriated herein shall be used to fund the requirements of new and/or urgent projects and activities that need to be implemented during the year, including the cost of local and foreign travels of the President, but shall in no case be used for the purchase of motor vehicles."

51. Thus, "(t)he Initiative and Referendum Act" directly and expressly provides for the following matters, among other procedural details, in connection with a people's initiative to amend the fundamental law:

(a) "(t)he amount necessary to defray the cost of the initial implementation of this Act shall be charged against the Contingent Fund in the General Appropriations Act of the current year" and "(t)hereafter, such sums as may be necessary for the full implementation of this Act shall be included in the annual General Appropriations Act;"[81]

(b) "the Commission on Elections shall set a special registration day at least three (3) weeks before a scheduled initiative or referendum;"[82]

(c) "(t)he Election Registrar shall verify the signatures on the basis of the registry list of voters, voters' affidavits and voters identification cards used in the immediately preceding election;"[83] and

(d) the "Commission shall, upon determining the sufficiency of the petition, publish the same in Filipino and English at least twice in newspapers of general and local circulation…"[84]

52. The "Voter's Registration Act of 1996," provides for a permanent list of voters. This statute may be construed in relation to Section 6 of Republic Act No. 6735 regarding Special Registration.

[81] Supra RA6735, Sec. 21.
[82] Id., Sec. 6.
[83] Id., Sec. 7.
[84] Id., Sec. 8.

53. The General Appropriations Act for Fiscal Year 2005, re-enacted for Fiscal Year 2006, provides for the appropriation of funds necessary to conduct a plebiscite.[85] The General Appropriations Act also provides for a Contingency Fund which may alternatively and lawfully be the source of funds for a plebiscite.[86] This statute may be construed in relation Section 21 of Republic Act No. 6735 regarding Appropriations.

54. In connection with the matter of the Congressional implementation of the constitutional provisions on people's initiative, it is useful to note the opinion of J. Panganiban[87] which reads as follows:

> "Our distinguished colleague, Mr. Justice Hilario G. Davide Jr., writing for the majority, holds that…
> (2) While the Constitution allows amendments to "be directly proposed by the people through initiative." There is no implementing law for the purpose. RA 6735 is "incomplete, inadequate, or wanting in essential terms and conditions insofar as initiative on amendments to the Constitution is concerned."
> (3) COMELEC Resolution No. 2300, "insofar as it prescribes rules and regulations on the conduct of initiative on amendments to the Constitution, is void."…
>
> "(I) dissent most respectfully from the majority's two … rulings. Let me explain.
>
> "Under the above restrictive holding espoused by the Court's majority, the Constitution cannot be amended at all through a people's initiative. Not by Delfin, not by Pirma, not by anyone, not even by all the voters of the country acting together. This decision will effectively but unnecessarily curtail, nullify, abrogate and render inutile the people's right to change the basic law. At the very least, the majority holds the right hostage to congressional discretion on whether to pass a new law to implement it, when there is already one existing at present. This right to amend through initiative, it bears stressing, is guaranteed by Section 2, Article XVII of the Constitution, as follows:
>
> > "SEC. 2. Amendments to this Constitution may likewise be directly proposed by the people through initiative upon a petition of at least twelve per centum of the total number of registered voters, of which every legislative district must be represented by at least three per centum of the registered voters therein. No amendment under this section shall be authorized within five years following the ratification of this Constitution nor oftener than once every five years thereafter."
>
> "With all due respect, I find the majority's position all too sweeping and all too extremist. It is equivalent to burning the whole house to exterminate the rats, and to killing the patient to relive him of pain. What Citizen Delfin wants the COMELEC to do we should reject. But we should not thereby preempt any future effort to exercise the right of initiative correctly and judiciously. The fact that the

[85] Re-enacted Republic Act No. 9336, General Appropriations Act, FY 2005, Article XXXI Commission on Elections.
[86] Re-Enacted Republic Act No. 9336, supra, Article XXXIX Contingent Fund.
[87] Miriam Defensor Santiago, et al, v. Commission on Elections (COMELEC), et al, G.R. No. 127325, 19 March 1997, Concurring and Dissenting Opinion, Panganiban, J.

Delfin Petition proposes a misuse of initiative does not justify a ban against its proper use. Indeed, there is a right way to do the right thing at the right time and for the right reason.

"Taken Together and Implementing Properly, the Constitution, RA 6735 and COMELEC Resolution 2300 Are Sufficient to Implement Constitutional Initiatives. While RA 6735 may not be a perfect law, it was -- as the majority openly concedes -- intended by the legislature to cover and, I respectfully submit, it contains enough provisions to effectuate an initiative on the Constitution…

"[1] Apart from its text on "national initiative" which could be used by analogy, RA 6735 contains sufficient provisions covering initiative on the Constitution, which are clear enough and speak for themselves, like:

> "SEC. 2. Statement of Policy. -- The power of the people under a system of initiative and referendum to directly propose, enact, approve or reject, in whole or in part, the Constitution, laws, ordinances, or resolution passed by any legislative body upon compliance with the requirements of this Act is hereby affirmed, recognized and guaranteed.
>
> "SEC. 3. Definition of Terms. -- For purposes of this Act, the following terms shall mean:
> (a) "Initiative" is the power of the people to propose amendments to the Constitution or to propose and enact legislation's through an election called for the purpose.
>
> "There are three (3) systems of initiative, namely:
> a.1. Initiative on the Constitution which refers to a petition proposing amendments to the Constitution;
> a.2. Initiative on statutes which refers to a petition proposing to enact a national legislation; and
> a.3. Initiative on local legislation which refers to a petition proposing to enact a regional, provincial, city, municipal, or barangay law, resolution or ordinance.
> xxx xxx xxx
> (e) "Plebiscite" is the electoral process by which an initiative on the Constitution is approved or rejected by the people.
> (f) "Petition" is the written instrument containing the proposition and the required number of signatories. It shall be in a form to be determined by and submitted to the Commission on Elections, hereinafter referred to as the Commission
> xxx xxx xxx
>
> "SEC. 5. Requirements. -- xxx
> (b) A petition for an initiative on the 1987 Constitution must have at least welve per centum (12%) of the total number of registered voters as signatories, of which every legislative district must be represented by at least three per centum (3%) of the registered voters therein. Initiative on the Comstitution may be exercised only after five (5) years from the ratification of the 1987 Constitution and only once every five (5) years thereafter.
>
> "SEC. 9. Effectivity of Initiative or Referendum Proposition. --
> xxx xxx xxx
> (b) The proposition in an initiative on the Constitution approved by a majority of the votes casts in the plebiscite shall become effective as to the day of the plebiscite.

> xxx xxx xxx
> (c) The petition shall state the following:
> c.1. contents or text of the proposed law sought to be enacted, approved or rejected, amended or repealed, as the case may be;
> c.2. the proposition;
> c.3. the reason or reasons therefor;
> c.4. that it is not one of the exceptions provided herein;
> c.5. signatures of the petitioners or registered voters; and
> c.6. an abstract or summary proposition in not more than one hundred (100) words which shall be legibly written or printed at the top of every page of the petition.
> xxx xxx xxx
>
> "SEC. 19. Applicability of the Omnibus Election Code. -- The Omnibus Election Code and other election laws, not inconsistent with the provisions of this Act, shall apply to all initiatives and referenda.
>
> "SEC. 20. Rules and Regulations. -- The Commission is hereby empowered to promulgate such rules and regulations as may be necessary to carry out the purposes of this Act. (Italics supplied)

55. In relation to the foregoing, it is also useful to note the opinion of J. Francisco[88] which reads as follows:

> "There is no question that my esteemed colleague Mr. Justice Davide has prepared a scholarly and well-written *ponencia*. Nonetheless, I cannot fully subscribe to his view that R.A. No. 6375 is inadequate to cover the system of initiative on amendments to the Constitution.
>
> "To begin with, sovereignty under the constitution, resides in the people and all government authority emanates from them. Unlike our previous constitutions, the present 1987 Constitution has given more significance to this declaration of principle for the people are now vested with power not only to propose, enact or reject any act of law amendments to the constitution as well. To implement these Constitutional edicts, Congress in 1989 enacted Republic Act No. 6375, otherwise known as "*The Initiative and Referendum Act."* This law, to my mind, amply covers an initiative on the constitution. The contrary view maintained by petitioners is based principally on the alleged lack of sub-title in the law on initiative to amend the constitution and on their allegation that:
>
> > "Republic Act No. 6735 provides for the effectivity of the law after publication in print media. [And] [t]his indicates that Republic Act No. 6735 covers only laws and not constitutional amendments, because constitutional amendments take effect upon ratification not after publication"
>
> which allegation manifests petitioners' selective interpretation of the law, for under Section 9 of Republic Act No. 6735 on *Effectivity of Initiative or Referendum Proposition* paragraph (b) thereof is clear in providing that:
>
> > "The proposition in an initiative on the constitution approved by a majority of the votes cast in the plebiscite shall become effective as to the day of the plebiscite."
>
> "It is a rule that every part of the statute must be interpreted with reference to the

[88] Id, Dissenting and Concurring Opinion, 19 March 1997, Francisco, J.

context, i.e., that every part of the statute must be construed together with the other parts and kept subservient to the general intent of the whole enactment. Thus, the provisions of Republic Act No. 6735 may not be interpreted in isolation. The legislative intent behind every law is to be extracted from the statute as a whole.

"In its definition of terms, Republic Act No.6735 defines **initiative** as "*the power of the people to propose amendments to the constitution or to propose and enact legislations through an election called for purpose"* The same section, in enumerating the three systems of initiative, included an "*initiative on the constitution which refers to a petition proposing amendments to the constitution."* Paragraph (e) again of Section 3 defines "plebiscite" as the "the *electoral process by which an initiative on the constitution is approved or rejected by the people*." And as to the material requirements for an initiative on the Constitution, Section 5(b) distinctly enumerates the following:

> "A petition for an initiative on the 1987 Constitution must have at least twelve percentum (12%) of the total number of the registered voters as signatories, of which every legislative distric must be represented by at least 3 per centum (3%) of the registered voters therein. Initiative on the constitution may be exercised only after five (5) years from the ratification of the 1987 Constitution and only once every five years thereafter."

"These provisions were inserted, on purpose, by the Congress the intent being to provide for the implementation of the right to propose an amendment to the Constitution by way of initiative. "A legal provision," the Court has previously said, "must not be construed as to be a useless surplusage, and accordingly, meaningless, in the sense of adding nothing to the law or having no effect whatsoever thereon." That this is the legislative intent is further shown by the deliberations in Congress, thus:

> "x x x More significantly, in the course of the consideration of the Conference Committee Report on the disagreeing provisions of Senate Bill No. 17 and House Bill No. 21505, it was noted:
>
> "MR. ROCO. On the Conference Committee Report on the disagreeing provisions between Senate Bill No. 17 and the consolidated House Bill No. 21505 which refers to the system providing for the initiative and referendum, fundamentally, Mr. Speaker, we consolidated the Senate and the House versions, so both versions are totally intact in the bill. **The Senators ironically provided for local initiative and referendum and the House of Representatives correctly provided for initiative and referendum on the Constitution and on national legislation.**
>
> "I move that we approve the consolidated bill.
>
> "MR. ALBANO, Mr. Speaker.
>
> "THE SPEAKER PRO TEMPORE. What is the pleasure of the Minority Floor Leader?
>
> "MR. ALBANO. Will the distinguished sponsor answer just a few questions?
>
> "THE SPEAKER PRO TEMPORE. What does the sponsor say?
>
> "MR. ROCO. Willingly, Mr. Speaker.
>
> "THE SPEAKER PRO TEMPORE. The gentleman will please

proceed.

"MR. ALBANO. I heard the sponsor say that the only difference in the two bills was that in the Senate version there was a provision for local inititiative and referendum, whereas the House version has none.

"MR. ROCO. **In fact, the Senate version provided purely for local initiative and referendum, whereas in the House version, we provided purely for national and constitutional legislation.**

"MR. ALBANO. Is it our understanding, therefore, that the two provisions were incorporated?

"MR. ROCO. Yes, Mr. Speaker.

"MR ALBANO. **So that we will now have a complete initiative and referendum both in the constitutional amendment and national legislation.**

"MR. ROCO. That is correct.

"MR. ALBANO. And provincial as well as municipal resolutions?

"MR. ROCO. Down to barangay, Mr. Speaker.

"MR. ALBANO. And this initiative and referendum is in consonance with the provision of the Constitution to enact the enabling law, so that we shall have a system which can be done every five years. Is it five years in the provision of the Constitution?

"MR. ROCO. That is correct, Mr. Speaker. For **Constitutional amendments to the 1987 Constitution, it is every five years.**" (*Id.*[Journal and Record of the House of Representatives], Vol. VIII, 8 June 1989, p. 960; quoted in Garcia v. COMELEC, 237 SCRA 279, 292-293 [1994]; emphasis supplied).

"x x x The Senate version of the Bill may not have comprehended initiatives on the Constitution. When consolidated, though, with the House version of the Bill and as approved and enacted into law, the proposal included initiative on both Constitution and ordinary laws."Clearly then, Republic Act No. 6735 covers an initiative on the constitution. Any other construction as what petitioners foist upon the Court constitute a betrayal of the intent and spirit behind the enactment."

56. Consistent with the foregoing, it is likewise useful to note the opinion of Jr. Hermosisima, Jr.[89] which reads as follows:

"The underlying policy of R.A No.6735 is the realization of the "power of the people under a system of initiative and referendum to directly propose, enact, approve or reject, in whole or in part, the Constitution, [and] laws, ordinances, or resolution passed by any legislative body." The subject matter of R.A. No. 6735 clearly includes a people's initiative to amend the Constitution. Illustrative of this are (1) the definition of " initiative" in the said Act as " the power of the people to propose amendments to the Constitution or to propose and enact legislations through an election called for the purpose," (2) the enumeration in the same Act of the three (3) systems of initiative which includes the "initiative on the

[89] Id, 10 June 1997, Concurring and Dissenting Opinion, Hermosisima, Jr., J.

Constitution which refers to a petition proposing amendments to the Constitution," and (3) the definition of " plebiscite" as " the electoral process by which an initiative on the Constitution is approved or rejected by the people."

"Under the second paragraph of Section 2 of Article XVII of the 1987 Constitution, one of the duties and powers of the legislature is to enact a statute that " shall provide for the implementation of the exercise of [the] right [to amend the Constitution through a people's initiative]". In pursuance of this constitutional mandate, Congress provide in R.A. No. 6735 that " a petition for an initiative on the 1987 Constitution must have at least twelve per centum (12%) of the total number of registered voters as signatories, of which every legislative district must be represented by at least three per centum (3%) of the registered voters therein." "Directed by the Constitution to spell out the limits and parameters, if need there be, as to the exercise of the people's right to amend the Constitution through initiative proceedings, Congress further provided that "initiative on the Constitution may be exercised only after five (5) years from the ratification of the 1987 Constitution and only once every five (5) years thereafter."

"Having already laid out the required voters percentage and the limitation as to the time for the proper exercise of the right to amend the Constitution through a people's initiative, and having categorically provided that the initiatory petition for a people's initiative should contain "the proposition and the required number of signatories," R.A. No. 6735 proceeds thus to delegate to the Commission on Elections the power to determine the form of this initiatory petition.

"R.A. No. 6735 also provides for procedures for the process of verifying the signatures in the initiatory petition and for the conduct of a special registration before the scheduled initiative, all apparently in compliance by Congress with its constitutional duty to provide for the implementation of the exercise of the people's right to amend the Constitution through initiative proceedings.

"The thrust of the majority opinion is that in providing the above policies, concepts and procedures, Congress nonetheless failed to lay down the sufficient standards by which the Commission on Elections may be validly and effectively guided in " promulgat[ing] such rules and regulations necessary to carry out the purposes of [R.A.6735]" in the sense that R.A. No. 6735 is inadequate or wanting in the essential terms and conditions pertinent to the implementation of the people's right to amend the Constitution through initiative proceedings. Said Act, thus, cannot be deemed complete and containing sufficient standards to serve as valid basis for subordinate legislation in the form of COMELEC Resolution No. 2300.

"It is significant to note, however, that while the majority declared R.A. No. 6735 to be so inadequate as to bar the exercise by the people of their right to amend the Constitution through initiative proceedings, the majority decries the omission by Congress of only one provision- an enumeration of the contents of a petition for initiative on the Constitution. It bears repeating, however, that Sections 3 (f) and 5 (b) of R.A. No. 6735, read together, provide that a petition for initiative on the Constitution must contain the proposition and the required number of signatories, which is at least 12% of the total number of registered voters in the country, of which every legislative district should be represented by at least 3% of the voters thereof. Undoubtedly, such constitutes, by any measure, a sufficient standard on the basis of which the Commission on Elections may proceed to formulate the more detailed requirements, if any, of a petition to amend the Constitution through initiative proceedings.

> "The majority also pointed out that R.A. No. 6735 does not contain a subtitle treating solely of the matter of an initiative on the Constitution, but certainly the mere literal absence of such a subtitle without a explicit mention of what particular provisions should be contained under that subtitle, i.e., what "essential terms and conditions" are referred to by the majority as indispensable to make R.A. No. 6735 adequate for purposes of a people's initiative on the Constitution, does not make a good case in support of the majority's postulation that R.A. No. 6735 is insufficient for said purposes.
>
> "More importantly, I humbly submit that R.A. No. 6735 does not have to contain every detail conceivable in the matter of initiative proceedings for the amendment of the Constitution and that as it provides for the minimum voter percentage requirement, the essential requisites in the initiatory petition, the five-year time limit on the exercise of the right of initiative on the Constitution, the special registration day prior to the plebiscite, and the conduct of signature verification as to the initiatory petition, R.A. No. 6735 sufficiently laid down the necessary minimum standards for a valid and complete statute treating of the matter of, among others, the initiative proceedings to amend the Constitution. R.A. No. 6735 having provided for the basic and indispensable who's, what's, where's, when's and why's in the matter of the initiative proceedings to amend the Constitution, the details as to how such proceedings are to be step-by-step undertaken, are properly left to the Commission on Elections to promulgate in the form of subordinate legislation. Said commission, after all, is empowered by the Constitution to " enforce and administer all laws and regulations relative to the conduct of x x x initiative x x x " and by R.A. No. 6735 to " promulgate such ules and regulations as may be necessary to carry out the purposes of [said] Act."

57. It is argued that the constitutional provisions on initiative are not self-executory, or that they require the enactment of an enabling statute to provide for the effective exercise of the right, in view of the provision for Congressional implementation. The argument is erroneous. The people's right of initiative is essentially self-executory, save for the matter of budget appropriation by Congress, and the matter of procedure by COMELEC in the performance of its constitutional mandate. Firstly, the wording of the pertinent constitutional provisions expressly speak about "the implementation of the exercise of this right,"[90] and not about the creation of such right. **Thus, it is clear that the people's right of initiative already exists**. Secondly, the wording of the pertinent constitutional provisions on initiative, which employs the clause "provide for the implementation of the exercise of this right," is evidently distinct from the wording of other constitutional provisions, which employs the clause "provided by law."[91] If the

[90] Section 2, Article XVII, 1987 Constitution.
[91] Examples of these constitutional provisions under the 1987 Philippine Constitution are as follows: the right of labor to participate in decision-making processes under Section 3, Article XIII; the right of landless farmers to resettlement under Section 6, Article XIII; the right of proprietary educational institutions to tax exemptions under Section 4(3), Article XIV; and the intellectual property rights of creators under Section 13, Article XIV.

intent were to make the right of initiative dependent upon its creation by Congress, the constitutional provisions would have simply said that "(t)he right of initiative on the Constitution shall be provided by law," or that "Congress shall by law provide for the right of initiative on the Constitution." Thirdly, based on persuasive authority, the purpose of an initiative is "to empower the people, in case the legislature fails to act, to enact such measures themselves."[92] Thus, the provisions on initiative must be interpreted according to the basic purpose of an initiative.

58. Accordingly, where the proposition to the amend the constitution seeks to abolish the legislature, specifically the Upper House or the Senate, the implementation and exercise of the people's right of initiative, cannot be left to the discretionary cooperation of the legislative body sought to be abolished. Naturally, the Senate cannot be expected to agree to its own dissolution. Under these circumstances, there can never be a people's initiative to abolish the Senate, for as long as the Senate refuses to pass an enabling law on the matter. Surely, this could not have been intended by the people when they reserved to themselves the right of initiative. They could not have intended to reserve a useless right totally dependent upon the discretionary action of the legislature. This defeats the very purpose of the initiative.

59. In this regard, there is persuasive authority to the effect that constitutional provisions on initiative are regarded as self-executory, if they provide for sufficient rules by which rights and duties may be enforced.[93] In the light of this authority, it may be noted that Sections 2 and 4, Article XVII of the 1987 Constitution expressly provide for the following: the manner of exercise (i.e. by written petition); the percentage requirement of registered voters (i.e. 12% of total number of registered voters, where every legislative district is represented by at least 3% of the registered voters therein); the frequency of exercise (i.e. once every five years); the voting requirement to ratify the amendment (i.e. majority of the votes cast); the date of effectivity of the amendment (i.e. date of ratification by the required majority); the date of the plebiscite (i.e. not earlier

[92] 82 C.J.S. S116. S.D.-State v. Whisman, 154 N.W. 707, 36 S.Ct. 449, 241 U.S. 643, 60 L.Ed. 1218.
[93] 42 Am Jur 2d S3. Yenter v. Baker, 126 Colo 232, 248 P2d 311.

than 60 days nor later than 90 days after certification by the COMELEC of the sufficiency of the petition).

60. There is also persuasive authority to the effect that constitutional provisions on initiative are regarded as self-executory, if they provide for a machinery to carry the right into action.[94] In this regard, it may be noted that under Section 2(1), Article IXC of the 1987 Constitution, the COMELEC, an independent body specially created under the constitution, is empowered and mandated to enforce and administer all laws and regulations relative to the conduct of an initiative. Under Section 6 of Article IXA, the Commission on Elections *en banc* may "promulgate its own rules concerning pleadings and practice before it or before any of its offices." Under Section 11 of Article IXC, the "(f)unds certified by the Commission as necessary to defray the expenses for holding … plebiscites, initiatives … shall be provided in the regular or special appropriations and, once approved, shall be released automatically upon certification by the Chairman of the Commission."

61. It is also argued that the filing of three (3) bills before the Senate and four (4) bills before the House of Representatives, all proposing an enabling law for the people's initiative to amend the constitution, show "that both the House and the intervenor Sentate recognize the soundness of the Santiago precedent by filing several bills to close the big gap in R.A. 6735."[95] The argument is erroneous. The filing of a bill to amend Republic Act No. 6735 does not necessarily mean that the existing law is inadequate or unconstitutional for purposes of initiative on the constitution. It may merely mean that there is a move towards "statutory duplication" on the matter of initiative on the constitution. The phenomenon, generally practiced in penal legislation, may be applied by analogy to political legislation, whereby two or more statutes govern the same subject matter of initiative on the constitution. Accordingly, all such statutes should be read together and harmonized with each other. The latter statutes are thereby deemed merely to complement and supplement the earlier statutes. The enactment of latter statutes do not in any way imply that the matter of initiative on the constitution is not in fact governed

[94] 42 Am Jur 2d S3. Thompson v. Secretary of State, 192 Mich 512, 159 NW 65.
[95] Senate, Opposition in Intervention, pages 10-11. ALG Opposition in Intervention, pages 17-18.

by an existing statute. This is because in enacting new statutes on a subject matter already covered by an existing statute, the new statutes are considered enacted pursuant to the existing legislative policy of the existing statute, unless the existing statute is repealed.[96]

62. In another sense, the filing of a bill to amend Republic Act No. 6735, may also be considered as an instance of superfluous legislation. To illustrate this phenomenon, the case of *Bengzon v. Drilon*[97] may be cited as follows:

> "It was the impression that Presidential Decree No. 644 had reduced the pensions of Justices and Constitutional Commissioners which led Congress to restore the repealed provisions through House Bill No. 16297 in 1990. When her finance and budget advisers gave the wrong information that the questioned provisions in the 1992 General Appropriations Act were simply an attempt to overcome her earlier 1990 veto, she issued the veto now challenged in this petition.
>
> "It turns out, however, that P.D. No. 644 never became valid law. If P.D. No. 644 was not law, it follows that Rep. Act No. 1797 was not repealed and continues to be effective up to the present. In the same way that it was enforced from 1951 to 1975, so should it be enforced today.
>
> "House Bill No. 16297 was superfluous as it tried to restore benefits which were never taken away validly. The veto of House Bill No. 16297 in 1991 did not also produce any effect. Both were based on erroneous and non-existent premises."

63. In any case, it may likewise be noted that neither the House nor the Senate approved any of the bills filed with them. Accordingly, the bills filed by the individual legislators cannot even be remotely deemed as the collective acts of either the House or the Senate at this time.

64. Under the premises, it reasonably follows that the Constitutional provisions on initiative are essentially self-executory; that the Congressional implementation of the initiative contemplate only the appropriation of public funds for the conduct of a plebiscite and other related procedural election matters;[98] and such matters are already covered by *Republic Act No. 7635* or the Initiative and Referendum Act, *Republic Act No. 8189* or the Voter's Registration Act of 1996 (in relation to Section 6 of Republic Act No. 6735 regarding voter registration), and *Republic Act No. 9336* or the General Appropriations Act for Fiscal Year 2005, re-enacted for Fiscal Year 2006 (in relation to Section 21 of Republic Act No. 6735 regarding appropriations), which taken together,

---

[96] See People v. McLaughlin, 93 Misc. 2d 980, 402 N.Y.S. 2d 137 (N.Y. Sup. Ct. Queens 1978).
[97] Bengzon v. Drilon, G.R. No. 103524, 15 April 1992.
[98] Record of the Constitutional Commission (Con-Com), 391-392.

provide for the appropriation of funds necessary to conduct a plebiscite,[99] the registration of voters,[100] the mechanics governing the verification of signatures[101] and other election procedures.

ARGUMENTS ON THE
SUFFICIENCY OF THE PETITION

IIA. The COMELEC en banc and its Election Officers, have effectively declared the Amended Petition for initiative to amend the constitution, as sufficient in form and substance, warranting its publication and the setting of the plebiscite, per the COMELEC en banc Resolution dated 31 August 2006 and the 1528 certificates of verification issued by all the COMELEC Election Officers nationwide.

65. As stated above in the Statement of the Case of the Facts, the requisite signatures of the registered voters supporting the initiative to amend the constitution, are covered by 1528 certificates of verification issued by all the COMELEC Election Officers nationwide, attached as Annexes "1" to "1528" of the Petition dated 25 August 2006, and are incorporated by reference to the present petition. The names and signatures of the 6,327,952 registered voters also appear in Annexes "01100000" to "17752041" of the Petition dated 25 August 2006, and are likewise incorporated by reference to the present petition.

66. Thus, on 31 August 2006, when the COMELEC *en banc* issued a Resolution denying due course to the Amended Petition, it nonetheless stated that "the signatures in the instant Petition appear to meet the required minimum *per centum* of the total number of registered voters, of which every legislative district is represented by at least three *per centum* of the registered voters therein." In other words, were it not for the so-called "permanent injunction" in the *Santiago* case, the COMELEC *en banc* would have given due course to the petition for initiative to amend the constitution, there being compliance with the constitutional percentage requirements.

[99] Republic Act No. 6735, Sec. 21.
[100] Id., Sec. 6.
[101] Id., Sec. 7.

67. In relation to the foregoing, it is useful to note that the COMELEC has earlier issued memoranda confirming the authority of the Election Officers to verify signatures in the ordinary course of the performance of their administrative functions. A copy of Comelec Memorandum dated 30 March 2006, addressed to the Regional Election Directors of Regions II, III and V, by Romeo A. Brawner, Commissioner -in-Charge for Regions II, III and V, is attached as Exhibit "C." A copy of Comelec Memorandum dated 27 March 2006, addressed to Director Adolfo A. Ibanez, Regional Election Director for Region VIII, by Atty. Alioden D. Dalaig, Director IV, Law Department, is also attached as Exhibit "D."

68. It is also useful to note that there is persuasive authority to the effect that "(t)he rule in some jurisdictions is that the findings of local administrative officers as to the genuineness of signatures to a petition are conclusive on the secretary of state."[102] "Where the determination of the genuineness of signatures on an initiative petition is vested solely in local officers authorized to determine such questions, their determination and certification to the secretary of state that initiated signatures are genuine is not reviewable by him."[103] "(A)lthough such officers may not be specifically required to return their certificates to the secretary of state, the certificates are, nevertheless, the prescribed official evidence of their decisions as to validity of signatures."[104]

69. In view of the foregoing, considering that all the COMELEC Election Officers nationwide have now completed the verification of the signatures submitted to them, it reasonably follows that their findings confirming the genuineness of the signatures can no longer be reviewed by the COMELEC *en banc*.

70. Furthermore, it is important to note that any attack on the validity of any and all the certifications of verification issued by the COMELEC Election Officers should be properly and timely made by way of a direct attack in a proceeding pursued specifically for the purpose. It should not be done by way of a collateral attack such as through an opposition-in-intervention under the petition for initiative filed with the COMELEC *en*

[102] 42 Am Jur 2d S38. State ex rel. Case v Superior Court, 81 Wash 623, 143 P 461.
[103] 82 C.J.S. S82f. Wash.-State v. Thurston County Super. Ct., 143 P. 461, 81 Wash. 623.
[104] 82 C.J.S. S82f. Wash.-State v. Thurston County Super. Ct., supra.

banc below or under the present Petition for *Certiorari* and *Mandamus*. This is because the constitutional principle of "due process"[105] necessarily requires that the COMELEC Election Officers whose official acts have been impugned be granted reasonable opportunity to defend their actions.

71. Accordingly, any judicial review of the factual sufficiency of the petition for initiative filed with the COMELEC *en banc* under the present Petition for *Certiorari* and *Mandamus* should be focused only on the inquiry of whether or not all the COMELEC Election Officers have issued the appropriate certifications of verification that comply with the 3% requirement for registered voters for each legislative district, and if so then whether or not the certifications taken together comply with the 12% requirement for registered voters nationwide.

72. It relation to the foregoing, it is also worthy to note that aside from citing the so-called "permanent injunction" in the *Santiago* case, the COMELEC *en banc* no longer discussed any other legal bar to the petition for initiative, such as the argument that the proposition constitutes a "revision" and not an "amendment," or that the proposition embraces more than one (1) subject matter. Accordingly, in view of the evidentiary presumption "(t)hat all issues relevant were raised,"[106] and "(t)hat the law has been obeyed,"[107] it reasonably follows that there is no such other legal bar to the petition for initiative.

73. In sum, it reasonably follows under the premises that the COMELEC *en banc* and its Election Officers, have effectively declared the Amended Petition for initiative to amend the constitution, as sufficient in form and substance, warranting its publication and the setting of the plebiscite, per the COMELEC *en banc* Resolution dated 31 August 2006 and the 1528 certificates of verification issued by all the COMELEC Election Officers nationwide.

[105] 1987 Constitution, Article III, Section 1.
[106] Section 3(o), Rule 131, Rules of Court.
[107] Section 3(ff), Rule 131, Rules of Court.

74. In this regard, it is noteworthy that there is persuasive authority to the effect that "(m)andamus lies to compel the submission of an initative or referendum proposition to the voters where all mandatory legal steps have been taken."[108]

Davao City

75. It is argued that the genuineness and due execution of the Certification of verification for the 1st, 2nd and 3rd Districts of Davao City, is deemed rebutted by the subsequent Certification dated 23 August 2006 issued by Atty. Marlon S. Casquejo that the said offices have not verified the signatures submitted.[109]

76. The argument is erroneous. Firstly, the certification cited does not provide any appropriate explanation or justification for the non-performance of their administrative functions. Secondly, there is persuasive authority to the effect that "if an officer fails to count the signatures, he may be forced to concede the sufficiency of the signatures on the petition."[110] Thus, the failure of COMELEC Election Officers to perform their administrative functions to verify signatures will not bar the petition for initiative on the constitution, but will instead deem the petition sufficient.

77. In any case, a clarificatory Certification dated 06 October 2006 regarding the verification for the 1st, 2nd and 3rd Districts of Davao City, is attached as Exhibit "E."

South Cotabato

78. It is also argued that the Certification of verification for the 1st Congressional District of South Cotabato, specifically for the Municipality of Polomolok, is non-compliant, because the document itself shows that the signatures submitted were not verified and compared with the signatures contained in the Book of Voters.[111] This was so because the said election book was then in the custody of the Clerk of Court of Branch 38 of the Regional Trial Court under the 11th Judicial Region.

79. The argument is erroneous. Neither Section 7 of Republic Act No. 6735 nor Section 30 of Comelec Resolution No. 2300 provides for verification through comparison with the book of voters. Both the statute and implementation rules and regulations

[108] 42 Am Jur 2d S50. State ex rel. Halliburton v. Roach, 230 Mo 408, 130 SW 689.
[109] OneVoice Opposition in Intervention, page 26.
[110] 42 Am Jur 2d S38. State ex rel. Plymale v. Garner, 147 W Va 293, 128 SE2d 185.
[111] Antonino Opposition in Intervention, pages 9-13.

provide only for "the registry list of voters, voters' affidavits and voters identification cards used in the immediately preceding election." Thus, the unavailability of the book of voters does not mean that no verification could be made based on the other election records specified by the statute and the implementing rules and regulations.

Appropriate remedy

80. Assuming without conceding that no proper verification was conducted in the 1st, 2nd and 3rd Districts of Davao, as well as in the 1st Congressional District of South Cotabato, specifically the Municipality of Polomolok, petitioners submit that the appropriate or regular course of action would be for the issuance of an order directing the responsible Election Officers to undertake the verification of the submitted signatures, rather than to dismiss outright the petition for initiative on the constitution.

81. It is noteworthy that under Sections 8 and 7 of Republic Act No. 6735, the COMELEC is mandated to determine the sufficiency of the petition within thirty (30) days upon its receipt. An essential component of the determination of sufficiency is the verification of the signatures submitted with the petition. Accordingly, the COMELEC is mandated to verify the signatures submitted with the petition within thirty (30) days upon its receipt.

82. Otherwise, if the present Petition for *Certiorari* and *Mandamus* or the Amended Petition for initiative on the constitution filed with public respondent COMELEC below, would instead be dismissed outright, the dismissal would not only deviate from the regular process of the initiative, it would also violate the substantive rights of the registered voters of the remaining 1524 election districts who have signed the petition for initiative, and whose signatures have already been verified by all the other responsible COMELEC Election Officers nationwide.

83. "Supplemental Arguments on the Sufficiency of the Petition" are discussed in Annex "B" of the present petition. "Supplemental Arguments on the Authority of COMELEC Election Officers to Verify Signatures" are discussed in Annex "C" of the present petition. "Supplemental Arguments on the Authority of the COMELEC *en banc*

to Give Due Course to a Petition for Initiative" are discussed in Annex "D" of the present petition.

IIB. The "permanent injunction" in the case of Santiago v. COMELEC cannot be applied to the Amended Petition for initiative to amend the constitution because: firstly, under the constitutional principle of "due process,"[112] the personal nature of an action for injunction,[113] as well as the adjudicatory nature of the power of judicial review,[114] the said order must be deemed to apply only to the parties of the Santiago case, and under the "actual controversies"[115] brought before the court; secondly, the "permanent injunction" was discussed only in the body of the Santiago decision; it was not so ordered in the disposition; thirdly, the principle of stare decisis cannot be applied because the Delfin petition in the Santiago case is materially different from the present petition; the Delfin petition called for the COMELEC to assist in the gathering of signatures; the present petition calls for the conduct of a plebiscite; the PIRMA petition in the PIRMA case is also materially different from the present petition; the PIRMA petition contained unverified signatures; the present petition contains verified signatures.

84. It is argued that the COMELEC *en banc* is barred from taking cognizance of the petition for initiative to amend the constitution because of the "permanent injunction" purportedly issued in the *Santiago* case. The argument is erroneous. There is no such thing as a "permanent injunction" that purports to operate as an injunction against the whole world, or that otherwise purports to apply automatically to all future cases or controversies not yet filed before the court. Consistent with the constitutional principle of "due process,"[116] the personal nature of an action for injunction,[117] as well as the adjudicatory nature of the power of judicial review,[118] the "permanent injunction" issued

[112] 1987 Constitution, Article III, Section 1.
[113] Kean v. Harley, 179 F.2d 888 (8th Cir. 1950).
[114] 1987 Constitution, Article VIII, Section 1, Paragraph 2.
[115] Id.
[116] 1987 Constitution, Article III, Section 1.
[117] Kean v. Harley, 179 F.2d 888 (8th Cir. 1950).
[118] 1987 Constitution, Article VIII, Section 1, Paragraph 2.

in the *Santiago* case, must be deemed to apply only to the parties of the case, and under the "actual controversies"[119] brought before the court.

85. Furthermore, it may be noted that the so-called "permanent injunction" in the *Santiago* case is found only in the opinion embodied in the Decision dated 19 March 1997. It did not form part of the *fallo* or disposition. Thus, in case of any inconsistency between the opinion and the disposition of a decision, it is settled that it is the disposition that prevails because that is the final order of the court while the opinion is merely a statement that orders nothing.[120]

86. It is also argued that the *Santiago* case contains not only a "concreteness norm" that binds the parties to the case, but also an "abstraction norm" that lays down the general principles that apply to future cases, per Professor Cass R. Sunstein, Law School and Department of Political Science, University of Chicago, in his commentary "On Analogical Reasoning."[121] The argument is erroneous. Firstly, the cited authority is not a case decision. It is a commentary by a professor of law about reasoning by analogy. Secondly, the commentary is made in the context of the common law system. The Philippines does not follow the common law system. Rather, it follows the alternative civil law system. Thirdly, there is persuasive authority to the effect that "(t)he force of an argument from analogy is different to that from precedent. An indistinguishable precedent must be followed unless the court has the power to overrule the earlier decision and does so. By contrast … (a)nalogies do not bind: they must be considered along with other reasons in order to reach a result."[122] Fourthly, the commentary on reasoning by analogy is made in relation to reasoning by precedent or the doctrine of *stare decisis.* In

---

[119] Id.
[120] OLAC v. Court of Appeals, G.R. No. 84256, 02 September 1992.
[121] Senate, Comment in Intervention, page 18.
[122] Precedent and Analogy in Legal Reasoning (Stanford Encyclopedia of Philosophy), 20 June 2006. "Arguments from precedent and analogy are two central forms of reasoning found in many legal systems, especially 'Common Law' systems such as those in England and the United States. Precedent involves an earlier decision being followed in a later case because both cases are the same. Analogy involves an earlier decision being followed in a later case because the later case is similar to the earlier one…The force of an argument from analogy is different to that from precedent. An indistinguishable precedent must be followed unless the court has the power to overrule the earlier decision and does so. By contrast, arguments from analogy vary in their strengths: from very 'close' analogies (which strongly support a result) to more 'remote' analogies (which weakly support a result). Analogies do not bind: they must be considered along with other reasons in order to reach a result. That an analogy is rejected in one case does not preclude raising the analogy in a different case… Precedents are distinguishable (and subject to overruling), while analogies provide non-conclusive reasons for reaching a particular outcome." (underscoring supplied)

other words, the commentary is not made in relation to the so-called "permanent injunction" that purports to operate as an injunction against the whole world, or that otherwise purports to apply automatically to all future cases.

87. In view of the foregoing, it is useful to review the rational behind the judicial doctrine of precedent or of *stare decisis.* "The doctrine of *stare decisis* is based on the principle that once a question of law has been examined and decided, it should be deemed settled and closed to further argument."[123] "(T)he rule on *stare decisis* promotes stability in the law and should, therefore, be accorded respect. However, blind adherence to precedents, simply as precedent, no longer rules. More than important than anything else is that the court is right, thus its duty to abandon any doctrine found to be in violation of the law in force."[124]

88. In this regard, it may be noted that Delfin petition in the *Santiago* case is materially different from the present petition. The Delfin petition called for the COMELEC to assist in the gathering of signatures. The present petition does not call for assistance. The present petition already submits the signatures gathered and verified in compliance with the percentage requirements for registered voters. Thus, the present petition calls instead for the conduct of a plebiscite. Accordingly, the doctrine of *stare decisis* cannot be applied with respect to the *Santiago* case.

89. It may also be noted the PIRMA petition in the *PIRMA* case is materially different from the present petition. The PIRMA petition contained unverified signatures. The present petition already submits the verified signatures in compliance with the percentage requirements for registered voters. Accordingly, the doctrine of *stare decisis* cannot be applied with respect to the *PIRMA* case.

ARGUMENTS ON AMENDMENT AND REVISION

IIIA. The words "amendment" and "revision" used in the 1987 Constitution must be understood in their ordinary sense, where the former simply means "to correct,"[125] while the latter simply means "to review" in order "to correct,"[126]

[123] Castillo v. Sandiganbayan, 377 SCRA 509, 515 (2002).
[124] Commissioner of Internal Revenue v. PLDT, 478 SCRA 61, 70 (2005).

making a simple distinction regarding the process of making the correction, rather than a complex distinction regarding the substance or extent of the correction, because that is the natural and presumed understanding of its author who are the common people at large.[127] *In another sense, the words "amendment" and "revision" used in the 1987 Constitution must be understood in their ordinary meaning which simply mean "changes," rather than in their technical meaning which may involve complex distinctions in the substance or extent of the "changes," because again that is the natural and presumed understanding of its author who are the common people at large.*[128]

"Amendment" distinguished from "revision"
based on the procedure or process of "correction"

90. At the outset, it is important to note the settled rule on constitutional law construction that the "words" of "constitutional provisions" must generally be given their ordinary meaning as understood by the common people. Thus, in the case of *J.M. Tuazon v. Land Tenure Administration*,[129] the Supreme Court ruled as follows:

> "We look to the language of the document itself in our search for its meaning. We do not of course stop there, but that is where we begin. It is to be assumed that the words in which constitutional provisions are couched express the objective sought to be attained. They are to be given their ordinary meaning except where technical terms are employed in which case the significance thus attached to them prevails. As the Constitution is not primarily a lawyer's document, it being essential for the rule of law to obtain that it should ever be present in the people's consciousness, its language as much as possible should be understood in the sense they have in common use. What it says according to the text of the provision to be construed compels acceptance and negates the power of the courts to alter it, based on the postulate that the framers and the people mean what they say." (underscoring supplied)

---

[125] Webster's Third New International Dictionary of the English Language Unabridged, 2002. Black's Law Dictionary, Sixth Edition, 1990.
[126] Webster's Dictionary, supra. Black's Dictionary, supra.
[127] Id.
[128] Id.
[129] J.M. Tuazon & Co., Inc. v. Land Tenure Administration, et al, G.R. No. L-21064, 18 February 1970. The case involved the construction of Section 4, Article XIII of the 1935 Constitution governing expropriation in relation to a statute made specifically applicable to a particular piece of land owned by J.M. Tuason & Co.. The constitutional provision reads as follows: "The Congress may authorize, upon payment of just compensation, the expropriation of lands to be subdivided into small lots and conveyed at cost to individuals." The court ruled that the statute was constitutional.

91. The exception recognized by *J.M. Tuazon* case lies when technical terms are employed. Examples of these technical terms are as follows: *en banc,*[130] *certiorari,*[131] *mandamus,*[132] *quo warranto,*[133] *habeas corpus,*[134] *reclusion perpetua,*[135] *ex officio.*[136]

92. The evident *ratio decidendi* of the ruling is that the author of the constitution are the lay people at large who are not lawyers. Accordingly, it becomes natural and reasonable to presume and expect that the lay people at large understand the "words" of "constitution provisions" in their ordinary or common signification. In a contrary sense, it would be unreasonable to presume and expect the lay people at large to be familiar and cognizant of the technical signification of such words because precisely they are not lawyers.

93. On the other hand, the manifest rational for recognizing the exception with respect to technical terms is that these "words" do not really have any ordinary or common signification in the minds of the lay people at large. These "words" do not mean anything to them unless the "words" are understood in their technical signification.

94. In contrast to the constitution, the author of a statute or act of legislation is not the lay people at large. Rather, the author of a statute is the special body of selected legislators dedicated to the technical task of making law. In this sense, the legislators may be considered as technical law specialists. As such, it becomes natural and reasonable to presume that the legislators are generally familiar and cognizant of the technical signification of "words" used in the "statutes" even if they are not lawyers.

95. Accordingly, in view of the marked difference in the technical competence between the lawyers and legislators on one hand and the lay people on the other hand, it becomes evident that the presumption of familiarity with the technical signification of words applied to lawyers and legislators, cannot be reasonably applied to the common people at large.

---

[130] 1987 Constitution, Article VIII, Sec. 4.
[131] Id., Sec. 5(1).
[132] Id.
[133] Id.
[134] Id.
[135] Id., Sec.5(2)(d).
[136] Id., Sec. 8(1).

96. Under the premises, it reasonably follows that the words of the constitution must be generally understood in their ordinary meaning and not in their technical meaning, because the constitution is authored by the common people at large who are ordinary laymen, and not by lawyers or lawmakers who are legal specialists.[137]

97. In view of the foregoing, we note that to the common or lay people at large, the English word "amend" means to "correct,"[138] while the word "revise" means to "look at or over again for the purpose of correcting."[139] Closely consistent with the foregoing, we also note that to law practitioners in particular, the English word "amend" means to "change, correct,"[140] while the word "revise" means to "review and re-examine for correction."[141]

98. Thus, based on their common or ordinary meanings, the word "amendment" is distinguished from the word "revision," with regard to the manner of formulating the corrections. The former does not involve any review, while the latter involves a review.

99. With this distinction in mind, we note that the constitutional provisions expressly provide for both "amendment" and "revision" when it speaks of legislators and constitutional convention delegates,[142] while the same provisions expressly provide only for "amendment" when it speaks of the people.[143] It would seem that the apparent distinction is based on the actual experience of the people, that on one hand the common people in general are <u>not expected</u> to work full-time on the matter of correcting the constitution because that is not their occupation, profession or vocation; while on the other hand, the legislators and constitutional convention delegates are <u>expected</u> to work full-time on the same matter because that is their occupation, profession or vocation. Thus, the difference between words "revision" and "amendment" pertain only to the process or procedure of coming up with the corrections, for purposes of interpreting the constitutional provisions.

---

[137] Supra J.M. Tuazon.
[138] Webster's Third New International Dictionary of the English Language Unabridged, 2002.
[139] Id.
[140] Black's Law Dictionary, Sixth Edition, 1990.
[141] Id.
[142] 1987 Constitution, Article XVII, Section 1.
[143] 1987 Constitution, supra, Section 2.

100. Stated otherwise, the difference between "amendment" and "revision" cannot reasonably be in the substance or extent of the correction. This is so because that is not within the common or ordinary meanings of these words. The difference also cannot be in the number of words, or number of phrases, or number of clauses, or number of sentences, or number of paragraphs, or number of sections, or number of articles, because that is not expressly or impliedly provided for in the text of the constitutional provisions.

101. Under the premises, it reasonably follows that the words "amendment" and "revision" used in the 1987 Constitution must be understood in their ordinary sense, where the former simply means "to correct,"[144] while the latter simply means "to review" in order "to correct,"[145] making a simple distinction regarding the process of making the correction, rather than a complex distinction regarding the substance of the correction, because that is the natural and presumed understanding of its author who are the common people at large.[146]

"Amendment" likened to "revision"
based on the substance of the "change"

102. In another sense, it may be noted that the English words "amend" and "amendment" are generally and broadly understood by common or lay people as follows:

> "**amend** … (1) to change or modify in any way for the better**:** IMPROVE, BETTER <~ our situation> (2) to change or alter in any way esp. in phraseology <~ a remark>; *specif***:** to alter (as a motion, bill, or law) formally by modification, deletion, or addition <~ the constitution>,"[147] (underscoring supplied) and "**amendment** … 1: act of amending esp. for the better: correction of a fault or faults: … 3a: the process of amending (as a motion, bill, act, or constitution) …"[148] (underscoring supplied)

103. In relation to the foregoing, the words "revise" and "revision" are also generally and broadly understood by lay people as follows:

> "**revise** … 1 obs: to look again, often, or back: look in retrospect … 2a: to make a new, amended, improved, or up-to-date version of…"[149] (underscoring supplied) and "**revision** … 1a: act of revising: re-examination or careful reading over for

[144] Webster's Third New International Dictionary of the English Language Unabridged, 2002. Black's Law Dictionary, Sixth Edition, 1990.
[145] Webster's Dictionary, supra. Black's Law Dictionary, supra.
[146] Id.
[147] Webster's Third New International Dictionary of the English Language Unabridged, Merriam-Webster, Inc., p. 68.
[148] Id.
[149] Id, p. 1944.

> correction or improvement <the ~ of a book> b: something made by revising: a revised form or version 2: a seeing again."[150] (underscoring supplied)

104. Thus, in the minds of the common people at large, to "amend" means to "change."[151] On the other hand, to "revise" means to "amend."[152] In other words, in the minds of the lay people at large, to "amend" or to "revise" means to "change."[153] There is no strict technical disctinction whatsoever between an "amendment" and a "revision" with respect to the nature and extent of the changes. They are in this sense interchangeable.

105. Incidentally, it is useful to note that even law practitioners in particular define the words "amend" and "amendment" in a similar manner as follows:

> "**Amend.** To improve. To change for the better by removing defects or faults. To change, correct, revise…"[154] and "**Amendment.** To change or modify for the better. To alter by modification, deletion or addition."[155]

106. In relation to the foregoing, the law practitioners also define the words "revise" and "revision" in the same manner as follows:

> "**Revise**. To review and re-examine for correction. To go over a thing for the purpose of amending, correcting, rearranging, or otherwise improving it; as, to revise statutes, or a judgment."[156] and "**Revision.** A re-examination or careful reading over for correction or improvement."[157]

107. Thus, in the minds of the law practitioners, to "amend" also means to "revise" or to "change."[158] On the other hand, to "revise" means to "amend."[159] In other words, in the minds of the law practitioners, to "amend" or to "revise" has the same meaning which is to "change."[160]

108. In this regard, it may be noted that there is persuasive authority to the effect that the terms "amendment" and "revision" may be used synonymously.[161]

---

[150] Id.
[151] Id., p. 68.
[152] Id., p. 1944.
[153] Id., p. 68, 1944.
[154] Black's Law Dictionary, Sixth Edition, West Publishing Co., 1990, p. 80.
[155] Id., p. 81.
[156] Id., p. 1321.
[157] Id.
[158] Id., p. 68.
[159] Id., p. 1944.
[160] Id., p. 68, 1944.
[161] 16 C.J.S. s7(a). N.D.-State v. Taylor, 133 N.W. 1046, 22 N.D. 362.

109. In relation to the foregoing, it may also be noted that the Federal Constitution of the United States of America does not use the word "revision."[162] The reference to the United States constitution is significant because the Philippines adopts to a substantial extent the United States constitutional principles in the formulation of the Philippine constitution.[163]

110. In any case, it is argued that there is persuasive authority in the California case of *McFadden v. Jordan*[164] that supports by analogy the view that the distinction between "amendment" and "revision" pertains to the subject or extent of the change; and that the people's initiative may cover only an "amendment" and not a "revision." The contention is erroneous. The *McFadden* case is not applicable to the present case. Firstly, there is analogous authority to the effect that the view that the sovereign people cannot violate the procedure for amending or revising the constitution which they themselves defined, is not applicable to a unitary state like the Philippines.[165] The view is applicable only to a federal state like the United States, "in order to and preserve the existence of the Federal Republic of the United States against any radical innovation initiated by the citizens of the fifty (50) different states of the American Union, which states may be jealous of the powers of the Federal government presently granted by the American Constitution. This dangerous possibility does not obtain in the case of our Republic." [166] Secondly, the California Constitution "contains 25 articles divided into some 347 sections expressed in approximately 55,000 words."[167] In contrast to the California Constitution, the 1987 Philippine Constitution is contains only 18 articles divided into some 307 sections expressed in approximately 21,500 words. Thus, the California Constitution goes beyond the general principles and dwells into the specific details. On the other hand, the

[162] United States Constitution, Article V. "The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate." (underscoring supplied)
[163] See Marcos, et al, v. Manglapus, et al, G.R. No. 882111, 15 September 1989, Footnote **.
[164] McFadden v. Jordan (1948) 32 C2d 330.
[165] Javellana v. Executive Secretary, G.R. No. L-36142, 31 March 1973, Separate Opinion, J. Makasiar.
[166] Id.
[167] McFadden supra.

Philippine Constitution limits itself to the general principles, without going into the specific details. Thirdly, the petition in *McFadden* "proposes to add to (the California) Constitution 'a new Article to be numbered Article XXXII thereof' and to consist of 12 separate sections (actually in the nature of separate articles) divided into some 208 subsections (actually in the nature of sections) set forth in more than 21,000 words."[168] In contrast to the proposition in *McFadden*, the present petition proposes to change only 3 Articles including the Transitory Provisions divided into some 7 sections and set forth in less than 1,000 words.

111. It is also argued that per the opinion of Father Joaquin Bernas,[169] the view that the distinction between "amendment" and "revision" on the basis of the subject or extent of the change, is supported by sound policy considerations. Thus, it is contended that "(i)n a deliberative body like Congress or a Constitutional Convention, decisions are reached after much purifying debate. And while the deliberations proceed, the public has the opportunity to get involved. It is only after the work of an authorized body has been completed that it is presented to the electorate for final judgment. Careful debate is important because the electorate tends to accept what is presented to it even sight unseen."[170]

112. The argument is erroneous. Per the opinion of Representative Edcel C. Lagman, the "alleged reason of 'practicality' for limiting proposals to revise the constitution to deliberative bodies only, like a constituent assembly and a constitutional convention, is of no moment because it is basically theoretical and not attuned with reality."[171] He cites the following reasons:

> "(a) A people's initiative, although not conducted by a deliberative assembly, is a continuing media event. Consequently, the media covers and discusses for public information and dissemination the pros and cons of the constitutional changes proposed through people's initiative;
>
> "(b) In fact, in people's initiative, the citizens are active participants, either as proponents or objectors, unlike in a constituent assembly or constitutional convention where the people are generally passive spectators.

[168] McFadden supra.
[169] Father Joaquin Bernas, "Amendment or Revision," Philippine Daily Inquirer, 25 September 2006.
[170] Id.
[171] Representative Edcel C. Lagman, "Rebuttal of Bernas' Commentary on 'Amendment or Revision,'" 25 September 2006, unpublished.

> "(c) Contemporaneous discussions and debates in various fora between and among adversaries on people's initiative, aside from the volumes of literature and commentaries on presidential versus parliamentary systems as well as bicameral versus unicameral legislatures which are extant, constitute a veritable repository of information which the voters can readily access;
>
> "(d) It is more theoretical than practical to contend that the people inform themselves of the deliberations and records of a constituent assembly or constitutional convention before they vote in a plebiscite. The fact is only lawyers, judges, historians and scholars peruse the proceedings and records of a constituent assembly or constitutional convention long after the fact of ratification or rejection of constitutional amendments or revision; and
>
> "(e) Whether the revision or amendments are through people's initiative, constituent assembly or constitutional convention, the people are informed of the proposals during the mandatory campaign period before the holding of the plebiscite."[172]

113. Under the premises, it reasonably follows that in another sense, the words "amendment" and "revision" used in the 1987 Constitution must be understood in their ordinary sense which simply mean "changes," rather than in their technical sense which may involve complex distinctions in the substance or extent of the "changes," because that is the natural and presumed understanding of its author who are the common people at large.[173]

IIIB. Assuming without conceding that the words "amendment" and "revision" must be understood in their technical meaning, and that the lay people at large are expected and presumed to know the complex distinctions in the substance or extent of the "changes," a change in form of government, involving a shift from the presidential system to the parliamentary system constitutes only an "amendment" of a portion and not a "revision" of the entire constitution, because it "changes" only the form of the legislative and executive branches of government under Articles VI and VII of the 1987 Constitution, and "does not change" any other portion of the constitution.

114. The 1987 Constitution is comprised of eighteen (18) articles as follows: Preamble; Article I on National Territory; Article II on Declaration of Principles and State Policies; Article III on Bill of Rights; Article IV on Citizenship; Article V on

[172] Id.
[173] Webster's Dictionary, supra. Black's Law Dictionary, supra.

Suffrage; Article VI on the Legislative Department; Article VII on the Executive Department; Article VIII on the Judicial Department; Article IX on Constitutional Commissions; Article X on Local Government; Article XI on Accountability of Public Officers; Article XII on National Economy and Patrimony; Article XIII on Social Justice and Human Rights; Article XIV on Education, Science and Technology, Arts, Culture and Sports; Article XV on Family; Article XVI on General Provisions; Article XVII on Amendments or Revisions; and Article XVIII on Transitory Provisions.

115. Thus, the constitution covers a comprehensive range of subjects, including the rights of citizens, the powers of government, the territory and national patrimony, and the declaration of principles and state policies. Each subject is separate and distinct from the other, although all subjects are related in some way to each other.

116. In view of the foregoing, we note that the people's petition for initiative covers only "changes" in the form of the political departments or the legislative and executive branches of government under Articles VI and VII of the 1987 Constitution. It does not purport to change the other portions of the constitution. The non-political department or the judicial branch of government remains intact and independent. The constitutional commissions also remain intact and independent. The local government units retain their autonomy. The citizenship, national territory, declaration of principles and state policies, bill of rights, national economy and patrimony, and all other provisions, remain unchanged. All other articles, except Articles VI and VII and the Transitory Provisions, are retained. No new charter is being proposed.

117. It is argued that a distinction must be made between "amendment" and "revision" on the basis of the substance or extent of the change, because per the record of deliberations of the Constitutional Commission, that is the apparent intent of the framers of the 1987 Constituion, whereby "amendment" covers a change of only specific provisions, while "revision" covers a change of the entire constitution.

118. The argument is erroneous. Firstly, the proposition of the subject petition for initiative covers only a change of specific provisions, and does not seek to change the entire constitution. More particularly, the proposition seeks to change only the form of

the political branch of government, by consolidating the legislative and executive branches into one political body the parliament. Secondly, it is noteworthy that none of the framers of the 1987 Constitution were elected by the people. They were instead appointed by former President Corazon C. Aquino, who herself assumed the presidency by extra-constitutional revolutionary action, rather than by institutional democratic election. Thirdly, in the case of *Civil Liberties Union v. Executive Secretary*,[174] the Supreme Court ruled as follows:

> "While it is permissible in this jurisdiction to consult the debates and proceedings of the constitutional convention in order to arrive at the reason and purpose of the resulting Constitution, resort thereto may be had only when other guides fail as said proceedings are powerless to vary the terms of the Constitution when the meaning is clear. Debates in the constitutional convention "are of value as showing the views of the individual members, and as indicating the reasons for their votes, but they give us no light as to the views of the large majority who did not talk, much less of the mass of our fellow citizens whose votes at the polls gave that instrument the force of fundamental law. We think it safer to construe the constitution from what appears upon its face." The proper interpretation thereto depends more on how it was understood by the people adopting it than in the framer's understanding thereof." (underscoring supplied)

119. In this regard, it may be noted that there is persuasive authority to the effect that "(w)here the character or nature of an amendment is not prescribed, it may extend to a change in the form of government."[175] In contrast to this persuasive authority, the opinion of Father Joaquin Bernas, S.J., a constitutionalist, that a change in the form of government involves a fundamental change that constitutes a "revision" and not an "amendment," does not cite any supporting authority.[176]

120. It may also be noted that the view that a change in form of government constitutes a "revision" and not an "amendment" may defeat the very purpose of the initiative. We may recall that the purpose of an initiative is "to empower the people, in

[174] Civil Liberties Union v. Executive Secretary, G.R. No. 83896 22 February 1991. The case involved the construction of Section 13, Article VII of the 1987 Constitution governing the holding of additional government positions in addition to the primary positions, in relation to an executive order authorising cabinet members to hold additional positions in the government or government corporations and receive corresponding compensation. The constitutional provision reads as follows: "The President, Vice-President, the Members of the Cabinet, and their deputies or assistants shall not, unless otherwise provided in this Constitution, hold any other office or employment during their tenure. They shall not, during said tenure, directly or indirectly practice any other profession, participate in any business, or be financially interested in any contract with, or in any franchise, or special privilege granted by the Government or any subdivision, agency, or instrumentality thereof, including government-owned or controlled corporations or their subsidiaries. They shall strictly avoid conflict of interest in the conduct of their office." The court ruled that the executive order was unconstitutional.

[175] 16 C.J.S. S7. Ala.-Downs v. City of Birmingham, 198 So. 231, 240 Ala. 177.
[176] Bernas, The Constitution of the Republic of the Philippines, A Commentary, 2003 Ed., p. 1294.

case the legislature fails to act, to enact such measures themselves."[177] Accordingly, where the proposition to the amend the constitution seeks to abolish the Upper House or the Senate of a bicameral legislature, because its continued existence is no longer politically acceptable, the right of initiative becomes the people's sole constitutional remedy available, short of taking direct people's power or extra-constitutional action, if and when the legislative body sought to be abolished actively resists its proposed abolition. Surely, the people could not have intended to grant upon its legislative representatives such government powers greater than that held by the people themselves.

121. It is argued that an amendment must be limited to one (1) subject, as provided by Section 10 of Republic Act No. 6735, and the present petition covers more than one (1) subject, because it proposes changes to Articles VI and VII, and creates a new Article XVIII, of the 1987 Constitution. The argument is erroneous. First, the present petition for initiative is limited only to one (1) subject, which is the change in form of government, involving the shift from the present bicameral-presidential system to the proposed unicameral-parliamentary system. Second, even assuming that the present petition covers more than one (1) subject, Section 2, Article XVII of the 1987 Constitution, which applies to constitutional amendments by way of a people's initiative, does not limit amendments to one (1) subject. Third, Section 26(1), Article VI of the 1987 Constitution, which limits bills passed by Congress to one (1) subject, applies only to the legislation of statutes, and does not apply to constitutional amendments. Fourth, Accordingly, Section 10(a) of the Initiative and Referendum Act (Republic Act No. 6735) which limits the petition for initiative to one (1) subject must be interpreted to apply only to the legislation of statutes, and not constitutional amendments. Otherwise, the cited section will be unconstitutional. Fifth, there is persuasive authority to the effect that "(g)enerally, it is held that a constitutional provision requiring that every act shall relate to one subject, to be expressed in the title, is as applicable to an initiative statute as to a legislative enactment but does not apply to initiated constitutional amendments."[178]

[177] 82 C.J.S. S116. S.D.-State v. Whisman, 154 N.W. 707, 36 S.Ct. 449, 241 U.S. 643, 60 L.Ed. 1218.
[178] 42 Am Jur 2d S24. Stern v. Fargo , 18 ND 289, 122 NW 403.

122. It is also argued that there is persuasive authority in the Florida case of *Adams v. Gunter*[179] that supports by analogy the view that an the amendment must be limited to one (1) subject as provided by Section 10 of Republic Act No. 6735. The contention is erroneous. The *Adams* case is not applicable to the present case. Firstly, there is analogous authority to the effect that the view that the sovereign people cannot violate the procedure for amending or revising the constitution which they themselves defined, is not applicable to a unitary state like the Philippines.[180] The view is applicable only to a federal state like the United States, "in order to and preserve the existence of the Federal Republic of the United States against any radical innovation initiated by the citizens of the fifty (50) different states of the American Union, which states may be jealous of the powers of the Federal government presently granted by the American Constitution. This dangerous possibility does not obtain in the case of our Republic."[181] Secondly, the Florida Constitution expressly provides that "any such revision or amendment" under the said constitution must embrace "only one subject and matter directly connected therewith."[182] In contrast to the Florida Constitution, the 1987 Philippine Constitution does not provide for any similar provision to this effect. Thirdly, there is persuasive authority that supports the petitioners' arguments to the effect that "(g)enerally, it is held that a constitutional provision requiring that every act shall relate to one subject, to be expressed in the title, is as applicable to an initiative statute as to a legislative enactment but does not apply to initiated constitutional amendments."[183]

123. In view of the foregoing, it is noteworthy that when the 1935 Constitution went through fundamental changes in 1940, involving the form of government, whereby the unicameral National Assemby was replaced with a bicameral Congress composed of a

---

[179] Adams v. Gunter (Fla) 238 So2d 824.
[180] Javellana v. Executive Secretary, G.R. No. L-36142, 31 March 1973, Separate Opinion, J. Makasiar.
[181] Id.
[182] Florida State Constitution, Article XI Amendments, **SECTION 3. Initiative.**--The power to propose the revision or amendment of any portion or portions of this constitution by initiative is reserved to the people, provided that, any such revision or amendment, except for those limiting the power of government to raise revenue, shall embrace but one subject and matter directly connected therewith. It may be invoked by filing with the custodian of state records a petition containing a copy of the proposed revision or amendment, signed by a number of electors in each of one half of the congressional districts of the state, and of the state as a whole, equal to eight percent of the votes cast in each of such districts respectively and in the state as a whole in the last preceding election in which presidential electors were chosen. (underscoring supplied)
[183] 42 Am Jur 2d S24. Stern v. Fargo , 18 ND 289, 122 NW 403.

Senate and a House of Representatives,[184] this change was merely called an amendment. It was never known as a revision.

124. It is also noteworthy that when the 1973 Constitution underwent changes in 1976, whereby legislative powers were fused or combined with executive powers under the Office of the President, the change was simply and specifically denominated as Amendment No. 6.[185] It was never known as Revision No. 6.

125. In comparison to these precedent changes in the form of the legislative branch of government (from a unicameral National Assembly to a bicameral Congress), and the allocation of powers between the political branches of government (specifically between the Office of the President and the Interim Batasang Pambansa), the present people's initiative that seeks to institute a shift from a bicameral-presidential system to a unicameral-parliamentary system of government, essentially involves the same concepts of changing the form of the legislative branch of government, and of combining legislative powers and executive powers into one consolidated political body, the parliament.

126. Accordingly, if the precedent change in the form of the legislative branch of government, and the fusion and combination of political powers in one government entity (the Office of the President), had then been unquestionably acknowledged and unconditionally accepted as a mere "amendments," then it reasonably follows that a similar change in the form of the legislature, together with a similar fusion and combination of political powers in one government entity, should now also be unquestionably acknowledged and unconditionally accepted as mere "amendments." There is no reason why a similar change in form, as well as a similar fusion and combination, should now be considered a "revisions."

127. Under the premises, even assuming without conceding that the words "amendment" and "revision" must be understood in their technical meaning, and that the common people at large are expected and presumed to know the complex distinctions in

[184] Vicente V. Mendoza, On Amending the Constitution, 07 July 2006
[185] Santiago v. COMELEC, G.R. No. 127325, 10 June 1997, Separate Opinion, J. Francisco, p. 3. See Legaspi v. Minister of Finance, G.R. No. L-58289, 24 July 1982.

the substance or extent of the "changes," a change in form of government, involving a shift from the presidential system to the parliamentary system, constitutes only an "amendment" of a portion and not a "revision" of the entire constitution, because it "changes" only the form of the legislative and executive branches of government under Articles VI and VII of the 1987 Constitution, and "does not change" any other portion of the constitution.

IIIC. In any case, the Supreme Court has ruled that "amendment" includes "revision," and that any technical distinction between an "amendment" or "revision" is immaterial the moment the proposed "change" is approved by the sovereign people.[186]

128. In the case of *Del Rosario v. Carbonell*,[187] the Supreme Court ruled that "amendment includes revision" as follows:

> "3. And whether the Constitutional Convention will only propose amendments to the Constitution or entirely overhaul the present Constitution and propose an entirely new Constitution based on an ideology foreign to the democratic system, is of no moment; because the same will be submitted to the people for ratification. Once ratified by the sovereign people, there can be no debate about the validity of the new Constitution.
> "4. The fact that the present Constitution may be revised and replaced with a new one by the Constitutional Convention called in Resolutions Nos. 2 and 4, respectively, of 1967 and 1969, because under Sec. 6(A), par. 5, of the law, a candidate may include a concise statement of his principal constitutional reforms, programs or policies, is no argument against the validity of the law because "amendment" includes the "revision" or total overhaul of the entire Constitution. At any rate, whether the Constitution is merely amended in part or revised or totally changed would become immaterial the moment the same is ratified by the sovereign people." (underscoring supplied)

129. The *Del Rosario* case involved the interpretation of the 1935 Constitution, which as distinguished from the 1973 and 1987 Constitutions, does not yet use the word "revision" in its text. The 1935 Constitution reads as follows:

> "Article XV, Amendments.
> Section 1. The Congress in joint session assembled, by a vote of three-fourths of all the Members of the Senate and of the House of Representatives voting separately, may propose amendments to this Constitution or call a convention for that purpose. Such amendments shall be valid as part of this Constitution when approved by a majority of the votes cast at an election at which the amendments are submitted to the people for their ratification."

---

[186] Simeon G. Del Rosario v. Ubaldo Carbonell, et al, G.R. No. L-32476, 20 October 1970. Samuel C. Occena v. Commision on Elections, et al, G.R. No. 56350, 02 April 1981.
[187] Supra Del Rosario.

130. In the case of *Occena v. COMELEC,*[188] the Supreme Court also ruled that "amendment includes revision" as follows:

> "Petitioners would urge upon us the proposition that the amendments proposed (i.e. Resolution No. 1 proposing an amendment allowing a natural-born citizen of the Philippines naturalized in a foreign country to own a limited area of land for residential purposes; Resolution No. 2 dealing with the Presidency, the Prime Minister and the Cabinet, and the National Assembly; and Resolution No. 3 on the amendment to the Article on the Commission on Elections) are so extensive in character that they go far beyond the limits of the authority conferred on the Interim Batasang Pambansa as successor of the Interim National Assembly. For them, what was done was to revise and not to amend. It suffices to quote from the opinion of Justice Makasiar, speaking for the Court, in Del Rosario v. Commission on Elections to dispose of this contention. Thus: "3. And whether the Constitutional Convention will only propose amendments to the Constitution or entirely overhaul the present Constitution and propose an entirely new Constitution based on an ideology foreign to the democratic system, is of no moment; because the same will be submitted to the people for ratification. Once ratified by the sovereign people, there can be no debate about the validity of the new Constitution. 4. The fact that the present Constitution may be revised and replaced with a new one … is no argument against the validity of the law because 'amendment' includes the 'revision' or total overhaul of the entire Constitution. At any rate, whether the Constitution is merely amended in part or revised or totally changed would become immaterial the moment the same is ratified by the sovereign people." There is here the adoption of the principle so well-known in American decisions as well as legal texts that a constituent body can propose anything but conclude nothing. We are not disposed to deviate from such a principle not only sound in theory but also advantageous in practice." (underscoring supplied)

131. The *Occena* case involved the interpretation of the 1973 Constitution, which as distinguished from the 1935 Constitution, already uses the word "revision" in its text, just like the 1987 Constitution. The 1973 Constitution reads as follows:

> "Article XVI, Amendments.
> Section 1. (1) Any amendment to, or revision of, this Constitution may be proposed by the National Assembly upon a vote of three-fourths of all its Members, or by a constitutional convention.
> (2) The National Assembly may, by a vote of two-thirds of all its Members, call a constitutional convention, or by a majority vote of all its Members, submit the question of calling such a convention to the electorate in an election.
> Section 2. Any amendment to or revision of this Constitution shall be valid when ratified by a majority of the votes cast in the plebiscite which shall be held not later than three months after the approval of such amendment or revision."

132. It is argued that per the Separate Opinion of J. Antonio in the case of *Javellana v. Executive Secretary,*[189] "amendment" must be distinguished from "revision" with respect to the substance or extent of the change. This argument is erroneous. Firstly, a Separate Opinion by its nature is not a binding opinion. On the other hand, the *Del*

[188] Supra Occena.
[189] Javellana v. Executive Secretary, G.R. No. L-36142, 31 March 1973, Separate Opinion, J. Antonio.

Rosario and *Occena* cases are binding decisions. The *Del Rosario* case is a decision of the Supreme Court First Division, while the *Occena* case is a decision of the Supreme Court En Banc. Secondly, the Separate Opinion of Justice Antonio actually supports the opposite view that "amendment" need not be distinguished from "revision" with respect to the substance or content of the change, because at the end of the day it is the approval of the people that gives validity to any "amendment" or "revision." The opinion of Justice Antonio on the matter reads as follows:

> "There is clearly a distinction between revision and amendment of an existing constitution. Revision may involve a rewriting of the whole constitution. The act of amending a constitution, on the other hand, envisages a change of only specific provisions. The intention of an act to amend is not the change of the entire constitution, but only the improvement of specific parts of the existing constitution of the addition of provisions deemed essential as a consequence of new conditions or the elimination of parts already considered obsolete or unresponsive to the needs of the times. 1 The 1973 Constitution is not a mere amendment to the 1935 Constitution. It is a completely new fundamental charter embodying new political, social and economic concepts. According to an eminent authority on Political Law, "The Constitution of the Philippines and that of the United States expressly provide merely for methods of amendment. They are silent on the subject of revision. But this is not a fatal omission. There is nothing that can legally prevent a convention from actually revising the Constitution of the Philippines or of the United States even were such conventions called merely for the purpose of proposing and submitting amendments to the people. For in the final analysis it is the approval of the people that gives validity to any proposal of amendment or revision." (Sinco, Philippine Political Law, p. 49). (underscoring supplied)

133. In relation to the foregoing, it is useful to note by analogy the Separate Opinion Justice Makasiar in the same case of *Javellana v. Executive Secretary*,[190] which reads as follows:

> "The 1973 Constitution is likewise impugned on the ground that it contains provisions which are ultra vires or beyond the power of the Constitutional Convention to propose.
>
> "This objection relates to the wisdom of changing the form of government from Presidential to Parliamentary and including such provisions as Section 3 of Article IV, Section 15 of Article XIV and Sections 3(2) and 12 of Article XVII in the 1973 Constitution…
>
> "In the Plebiscite Cases (L-35925, L-35929, L-35940, L-35942, L-35948, L-35953, L-35961, L-35965, & L-35979), Chief Justice Roberto Concepcion, concurred in by Justices Fernando, Barredo, Antonio and the writer, overruled this objection, thus: '. . . Regardless of the wisdom and moral aspects of the contested provisions of the proposed Constitution, it is my considered view that the Convention was legally deem fit to propose — save perhaps what is or may be

[190] Javellana v. Executive Secretary, G.R. No. L-36142, 31 March 1973, Separate Opinion, J. Makasiar.

> insistent with what is now known, particularly in international law, as Jus Cogens — not only because the Convention exercised sovereign powers delegated thereto by the people — although insofar only as the determination of the proposals to be made and formulated by said body is concerned — but also, because said proposals cannot be valid as part of our Fundamental Law unless and until 'approved by the majority of the votes cast at an election which' said proposals 'are submitted to the people for their ratification,' as provided in Section 1 of Article XV of the 1935 Constitution.'" (Pp. 11-18, Decision in L-35925, etc.) (underscoring supplied)

134. Thus, the Supreme Court has resolved the issue involving the apparent technical distinction between "amendment" and "revision" by simply ruling that "amendment includes revision."[191] Moreover, it has ruled that any purported technical distinction between "amendment" and "revision" necessarily becomes irrelevant the moment the "change" is approved by the sovereign people.[192]

FINAL STATEMENT

135. At this point, it is important to go back to the basic principle of democracy that sovereignty resides in the people.[193] Wherefore, in the exercise of its sovereignty, the Filipino people ordained and promulgated the constitution.[194]

136. To restate, sovereignty does not reside in the constitution. The people do not need the prior existence of a constitution in order to establish its inherent sovereignty. The people are the sovereign even without a constitution. If and when the people choose to write a constitution, the written instrument is deemed to be of the people, by the people and for the people.

137. In other words, the constitution is deemed made for the people, and not the people made for the constitution. This statement of a fundamental principle is based essentially on the universal maxim that **"the law was made for man, and not man made for the law."**[195]

138. Accordingly, when we come to interpret the provisions of the 1987 Constitution, specifically its amendment provisions, we must interpret them liberally in

[191] Supra Del Rosario. Supra Occena.
[192] Id.
[193] Supra Constitution, Article II, Section 1.
[194] Id, Preamble.
[195] Supra Mark 2: 23-28. Supra Matthew 7: 28-29. Supra Matthew 12: 42.

favor of the Filipino people, because the 1987 Constitution was made for the Filipino people, and not the Filipino people made for the 1987 Constitution.[196]

P R A Y E R

139. Wherefore, premises considered, petitioners respectfully pray that judgment be rendered:

(a) Granting the present Petition;

(b) Setting aside the public respondent COMELEC's Resolution dated 31 August 2006, which denied due course to the Petition for Initiative, for having been issued with grave abuse of discretion;

(c) Ordering that a Writ of Mandamus be issued directing the public respondent COMELEC to comply with Section 4, Article XVII of the 1987 Constitution, and to set the date of the plebiscite; and

(d) Granting other relief as may be just or equitable under the premises.

Quezon City for Manila. 11 October 2006.

Lambino De Guzman Tumanda & Rafanan
Counsel for Petitioner Raul L. Lambino
Autoland Sales Building
1616 Quezon Avenue, South Triangle
Diliman, Quezon City

By:

Raul L. Lambino
IBP No. 05601, Lifetime
PTR No. 1277541, 01-06-06 Pangasinan
Roll of Attorneys No. 35291

Demosthenes B. Donato
IBP No. 668717, 01-06-06, PPLM
PTR No. 4188514, 01-06-06, Makati
Roll of Attorneys No. 35872
Co-Counsel for Petitioner Raul L. Lambino
Autoland Sales Building
1616 Quezon Avenue, South Triangle
Diliman, Quezon City

[196] See Id.

Copy furnished:

Solicitor General Antonio Eduardo B. Nachura
134 Amorsolo Street
Legaspi Village, 1229 Makati City

Chairman Benjamin Abalos
Commission on Elections
Intramuros, 1002 Manila

Atty. Alberto C. Agra
Counsel for Petitioner Erico B. Aumentado
No. 12, Fourth Street
St. Ignatius Village, Quezon City

Atty. Pete Quirino-Quadra
In His Own Behalf
Section D, 8th Floor, Ramon Magsaysay Center
1680 Roxas Boulevard, Malate
1004 Manila

Atty. Carlos P. Medina
Counsel for Opposer OneVoice, Inc. et al.
Ateneo Human Rights Center
Room 101, Ground Floor, APS Building
20 Rockwell Drive, Rockwell Center
Makati City

Atty. Marlon J. Manuel
Counsel for Opposer-Intervenor
Alternative Law Groups, Inc.
Room 215, Institute of Social Order
Social Development Complex
Ateneo de Manila University
Loyola Heights, Quezon City

Atty. Neri Javier Colmenares
Counsel for Intervenor Luwalhati Ricasa Antonino
No. 1 Matatag corner Maaralin Streets
Central District, Quezon City

Atty. Manuel M. Lazaro
M.M. Lazaro & Associates
Counsel for Intervenors Philconsa and Estrella
19/F Chatham House Building
Valero corner V.A. Rufino Streets
Salcedo Village, Makati City

Atty. Mario Ongkiko
Ongkiko Kalaw Manhit & Accorda
Counsel for Intervenors Philconsa, Toledo and Bacungan
4/F Cacho Gonzales Building
101 Aguirre Street, Legaspi Village
Makati City

Atty. Reynaldo Y. Maulit

Counsel for Intervenors Tajon, Venus, Aguas and Gat Inciong
4/F Du-Val Building
669 Aurora Building, Quezon City

Atty. Ibarra M. Gutierrez III
Counsel for Intervenors Rosales, Aguja and Baraquel
101 Matahimik Street
Teachers' Village, Quezon City

Atty. Jose Anselmo I. Cadiz
Counsel for Cadiz, Bocar, Lat, Salvador and Tabayoyong
Suite 3601, 36/F Antel Global Centre
3 Julia Vargas Avenue, Ortigas Center
Pasig City, Metro Manila

Atty. Rufus B. Rodriguez
Rufus B. Rodriguez & Associates
Counsel for Joseph Ejercito Estrada and PMP
Suite 308 Heritage Center
1851 A. Vasquez Street
Malate, Manila

Atty. Pablo P. Garcia
Counsel for Integrated Bar of the Philippines, Cebu City and Cebu Chapters
2091 Andres Abellana corner Singson Streets
Guadalupe, Cebu City

Atty. Aquilino L. Pimentel III
Counsel for Pimentel, Osmena III, Madrigal, Estrada, Lim and Lacson
Suite 2106, Atlanta Center
No. 31 Annapolis Street, Greenhills
San Juan, 1503 Metro Manila

Atty. Democrito T. Mendoza &
Atty. Cecilio T. Seno
Counsel for TUCP
PGEA Compound, Elliptical Road
Corner Maharlika Avenue
Diliman, Quezon City

Atty. Arturo M. Castro
7F LTA Building, 118 Perea Street
Legaspi Village, Makati City

Atty. Antonio L. Salvador
102 Scout de Guia Street
Quezon City

R.A.V Saguisag
Counsel for petitioners in G.R. No. 174299
4045 Bigasan Street
Palanan, 1235 Makati City

Senator Miriam Defensor Santiago
Philippine Senate
Pasay City

Atty. Janijay B. Alonzo
Counsel for R. Adamat, R.M. Rivera and R. Baya
Block 38, Lot 12 Marawi Street
South City Homes
Biñan, Laguna

Atty. Arnel Z. Dolendo
Philippine Transport & General Workers
Organization and Victorino Balais
Rooms 504-505, S&L Building
1500 Roxas Boulevard
Pasay City

Senator Joker Arroyo
Philippine Senate
Pasay City

Ocampo Arciaga-Santos Nuñez
Lomangaya and Ribao
2nd Floor, Ocampo Heritage Building
214 Wilson Street, Greenhills
San Juan, Metro Manila

Topacio Law Office
Carnation Street, Camella Classic
Better Living, Parañaque City

Integrated Bar of the Philippines
IBP Building
Doña Julia Vargas Avenue
1605 Pasig City

Dean Pacifico Agabin
26th Floor Pacific Star Building
Gil Puyat Avenue corner Makati Avenue
Makati City

Copies for Solicitor General Antonio Eduardo B. Nachura, COMELEC Chairman Benjamin Abalos, Atty. Alberto C. Agra, Atty. Pete Quirino-Quadra, Atty. Carlos P. Medina, Atty. Marlon J. Manuel, Atty. Neri Javier Colmenares, Atty. Manuel M. Lazaro, Atty. Mario Ongkiko, Atty. Ibarra M. Gutierrez III, Atty. Jose Anselmo I. Cadiz, Atty. Rufus B. Rodriguez, Atty. Pablo P. Garcia, Atty. Aquilino L. Pimentel III, Atty. Democrito T. Mendoza, Atty. Arturo M. Castro, Atty. Antonio L. Salvador, R.A.V. Saguisag, Senator Miriam Defensor Santiago, Senator Joker Arroyo, Ocampo Arciaga-Santos Nuñez Lomangaya and Ribao, Topacio Law Office, Integrated Bar of the Philippines, Dean Pacifico Agabin, are served by registered mail due to distance and lack of available messenger.

Raul L. Lambino **Demosthenes B. Donato**

VERIFICATION

I, **Raul L. Lambino**, Filipino, of legal age, married, with office address at Autoland Building, 1616 Quezon Avenue, South Triangle, Diliman, Quezon City, Philippines, under oath, depose and say:

1. That I am one of the Petitioners in the above-captioned case;
2. That I have caused the preparation and authorized the filing of the foregoing Consolidated Reply;
3. That I have read the contents thereof and the allegations therein are of my own personal knowledge or based on authentic records.

Quezon City, Philippines, 11 October 2006.

Raul L. Lambino
Affiant

SUBSCRIBED AND SWORN to before me at Quezon City on 11 October 2006, affiant exhibiting his Comm. Tax Cert. No. 07758589 issued at Mangaldan, Pangasinan on 05 January 2006.

Doc. No. ____:
Page No. ____:
Book No. ____:
Series of 2006

ANNEX "A"
SUPPLEMENTAL ARGUMENTS
ON LEGAL STANDING

1. The principles governing legal standing are settled.

2. In the case of *Francisco v. House of Representatives,*[197] the Supreme Court ruled as follows:

> *"Locus standi* or legal standing or has been defined as a personal and substantial interest in the case such that the party has sustained or will sustain direct injury as a result of the governmental act that is being challenged. The gist of the question of standing is whether a party alleges such personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court depends for illumination of difficult constitutional questions…[198]
>
> "There is, however, a difference between the rule on real-party-in-interest and the rule on standing, for the former is a concept of civil procedure[199] while the latter has constitutional underpinnings.[200] In view of the arguments set forth regarding standing, it behooves the Court to reiterate the ruling in *Kilosbayan, Inc. v. Morato*[201] to clarify what is meant by *locus standi* and to distinguish it from real party-in-interest.
>
> > "The difference between the rule on standing and real party in interest has been noted by authorities thus: "It is important to note . . .

---

[197] G.R. No. 160261, 10 November 10, 2003.
[198] IBP v. Zamora, 338 SCRA 81 (2000) citing Joya v. PCGG, 225 SCRA 568 (1993); House International Building Tenants Association, Inc. v. Intermediate Appellate Court, 151 SCRA 703 (1987); Baker v. Carr, supra note 57.
[199] Rule 3, Section 2. Parties in interest. — A real party in interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit. Unless otherwise authorized by law or these Rules, every action must be prosecuted or defended in the name of the real party in interest.
[200] JG Summit Holdings, Inc. v. Court of Appeals, 345 SCRA 143, 152 (2000).
[201] 246 SCRA 540 (1995).

that standing because of its constitutional and public policy underpinnings, is very different from questions relating to whether a particular plaintiff is the real party in interest or has capacity to sue. Although all three requirements are directed towards ensuring that only certain parties can maintain an action, standing restrictions require a partial consideration of the merits, as well as broader policy concerns relating to the proper role of the judiciary in certain areas.

"Standing is a special concern in constitutional law because in some cases suits are brought not by parties who have been personally injured by the operation of a law or by official action taken, but by concerned citizens, taxpayers or voters who actually sue in the public interest. Hence the question in standing is whether such parties have "alleged such a personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court so largely depends for illumination of difficult constitutional questions…"

"On the other hand, the question as to "real party in interest" is whether he is "the party who would be benefited or injured by the judgment, or the 'party entitled to the avails of the suit…'"[202] (Citations omitted)

"When suing as a *citizen*, the interest of the petitioner assailing the constitutionality of a statute must be direct and personal. He must be able to show, not only that the law or any government act is invalid, but also that he sustained or is in imminent danger of sustaining some direct injury as a result of its enforcement, and not merely that he suffers thereby in some indefinite way. It must appear that the person complaining has been or is about to be denied some right or privilege to which he is lawfully entitled or that he is about to be subjected to some burdens or penalties by reason of the statute or act complained of.[203] In fine, when the proceeding involves the assertion of a public right,[204] the mere fact that he is a citizen satisfies the requirement of personal interest.

"In the case of a *taxpayer,* he is allowed to sue where there is a claim that public funds are illegally disbursed, or that public money is being deflected to any improper purpose, or that there is a wastage of public funds through the enforcement of an invalid or unconstitutional law.[205] Before he can invoke the power of judicial review, however, he must specifically prove that he has sufficient interest in preventing the illegal expenditure of money raised by taxation and that he would sustain a direct injury as a result of the enforcement of the questioned statute or contract. It is not sufficient that he has merely a general interest common to all members of the public…[206]

---

[202] Id. at 562-564.

[203] Agan v. PIATCO, G.R. No. 155001, May 5, 2003 citing BAYAN v. Zamora, 342 SCRA 449, 562-563 (2000) and Baker v. Carr, supra note 57; Vide Gonzales v. Narvasa,, 337 SCRA 733 (2000); TELEBAP v. COMELEC, 289 SCRA 337 (1998).

[204] Chavez v. PCGG, supra note 15.

[205] Del Mar v. PAGCOR 346 SCRA 485, 501 (2000) citing Kilosbayan, Inc., et.al. v. Morato, supra note 70; Dumlao v. COMELEC, 95 SCRA 392 (1980); Sanidad v. COMELEC, 73 SCRA 333 (1976); Philconsa v. Mathay, 18 SCRA 300 (1966); Pascual v. Secretary of Public Works, 110 Phil 331 (1960); Vide Gonzales v. Narvasa, supra note 77; Pelaez v. Auditor General, 15 SCRA 569 (1965); Philconsa v. Gimenez, 15 SCRA 479 (1965); Iloilo Palay & Corn Planters Association v. Feliciano, 13 SCRA 377 (1965).

[206] BAYAN v. Zamora, supra note 77 citing Bugnay v. Laron, 176 SCRA 240, 251-252 (1989); Vide Del Mar v. PAGCOR, supra note 79; Gonzales v. Narvasa, supra note 77; TELEBAP v. COMELEC, supra note 77; Kilosbayan, Inc. v. Morato, supra note 70; Joya v. PCGG, supra note 69; Dumlao v. COMELEC, supra note 79; Sanidad v. COMELEC, supra note 79; Philconsa v. Mathay, supra note 79; Pelaez v. Auditor General, supra note 79; Philconsa v. Gimenez, supra note 79; Iloilo Palay & Corn Planters Association v. Feliciano, supra note 79; Pascual v. Sec. of Public Works, supra note 79.

"While an association has legal personality to represent its members,[207] especially when it is composed of substantial taxpayers and the outcome will affect their vital interests,[208] the mere invocation by the *Integrated Bar of the Philippines* or any *member of the legal profession* of the duty to preserve the rule of law and nothing more, although undoubtedly true, does not suffice to clothe it with standing. Its interest is too general. It is shared by other groups and the whole citizenry. However, a reading of the petitions shows that it has advanced constitutional issues which deserve the attention of this Court in view of their seriousness, novelty and weight as precedents.[209] It, therefore, behooves this Court to relax the rules on standing and to resolve the issues presented by it.

"In the same vein, when dealing with *class suits* filed in behalf of all citizens, persons intervening must be sufficiently numerous to fully protect the interests of all concerned[210] to enable the court to deal properly with all interests involved in the suit,[211] for a judgment in a class suit, whether favorable or unfavorable to the class, is, under the *res judicata* principle, binding on all members of the class whether or not they were before the court.[212] Where it clearly appears that not all interests can be sufficiently represented as shown by the divergent issues raised in the numerous petitions before this Court, G.R. No. 160365 as a class suit ought to fail. Since petitioners additionally allege standing as citizens and taxpayers, however, their petition will stand…

"There being no doctrinal definition of transcendental importance, the following instructive determinants formulated by former Supreme Court Justice Florentino P. Feliciano are instructive: (1) the character of the funds or other assets involved in the case; (2) the presence of a clear case of disregard of a constitutional or statutory prohibition by the public respondent agency or instrumentality of the government; and (3) the lack of any other party with a more direct and specific interest in raising the questions being raised.[213] Applying these determinants, this Court is satisfied that the issues raised herein are indeed of transcendental importance.

3. In the case *David v. Arroyo*,[214] the Supreme Court held as follows:

"Locus standi is defined as "a right of appearance in a court of justice on a given question."[215] In private suits, standing is governed by the "real-parties-in interest" rule as contained in Section 2, Rule 3 of the 1997 Rules of Civil Procedure, as amended. It provides that "**every action must be prosecuted or defended in the name of the real party in interest**." Accordingly, the "real-party-in interest" is "**the party who stands to be benefited or injured by the**

---

[207] Chinese Flour Importers Association v. Price Stabilization Board, 89 Phil 439, 461 (1951) citing Gallego et al. vs. Kapisanan Timbulan ng mga Manggagawa, 46 Off. Gaz, 4245.
[208] Philippine Constitution Association v. Gimenez, supra note 79 citing Gonzales v. Hechanova, 118 Phil. 1065 (1963); Pascual v. Secretary, supra note 79.
[209] Integrated Bar of the Philippines v. Zamora, 338 SCRA 81 (2000).
[210] MVRS Publications, Inc. v. Islamic Da'wah Council of the Philippines, G.R. No. 135306, January 28, 2003, citing Industrial Generating Co. v. Jenkins 410 SW 2d 658; Los Angeles County Winans, 109 P 640; Weberpals v. Jenny, 133 NE 62.
[211] Mathay v. Consolidated Bank and Trust Company, 58 SCRA 559, 570-571 (1974), citing Moore's Federal Practice 2d ed., Vol. III, pages 3423-3424; 4 Federal Rules Service, pages 454-455; Johnson, et al., vs. Riverland Levee Dist., et al., 117 2d 711, 715; Borlasa v. Polistico, 47 Phil. 345, 348 (1925).
[212] MVRS Publications, Inc. v. Islamic Da'wah Council of the Philippines, supra note 87, dissenting opinion of Justice Carpio; Bulig-bulig Kita Kamag-Anak Assoc. v. Sulpicio Lines, 173 SCRA 514, 514-515 (1989); Re: Request of the Heirs of the Passengers of Doña Paz, 159 SCRA 623, 627 (1988) citing Moore, Federal Practice, 2d ed., Vol. 3B, 23-257, 23-258; Board of Optometry v. Colet, 260 SCRA 88 (1996), citing Section 12, Rule 3, Rules of Court; Mathay v. Consolidated Bank and Trust Co., supra note 88; Oposa v. Factoran, supra note 17.
[213] Kilosbayan v. Guingona, 232 SCRA 110 (1994).
[214] G.R. No. 171396 (2006).
[215] Black's Law Dictionary, 6th Ed. 1991, p. 941.

judgment in the suit or the party entitled to the avails of the suit."[216] Succinctly put, the plaintiff's standing is based on his own right to the relief sought.

"The difficulty of determining *locus standi* arises in **public suits**. Here, the plaintiff who asserts a "public right" in assailing an allegedly illegal official action, does so as a representative of the general public. He may be a person who is affected no differently from any other person. He could be suing as a "stranger," or in the category of a "citizen," or 'taxpayer." In either case, he has to adequately show that he is entitled to seek judicial protection. In other words, he has to make out a sufficient interest in the vindication of the public order and the securing of relief as a "citizen" or "taxpayer."

"Case law in most jurisdictions now allows both "citizen" and "taxpayer" standing in public actions. The distinction was first laid down in *Beauchamp v. Silk*,[217] where it was held that the plaintiff in a taxpayer's suit is in a different category from the plaintiff in a citizen's suit. **In the former, the plaintiff is affected by the expenditure of public funds, while in the latter, he is but the mere instrument of the public concern.** As held by the New York Supreme Court in *People ex rel Case v. Collins*:[218] "**In matter of mere public right, however…the people are the real parties…It is at least the right, if not the duty, of every citizen to interfere and see that a public offence be properly pursued and punished, and that a public grievance be remedied**." With respect to taxpayer's suits, *Terr v. Jordan*[219] held that "**the right of a citizen and a taxpayer to maintain an action in courts to restrain the unlawful use of public funds to his injury cannot be denied.**"

"However, to prevent just about any person from seeking judicial interference in any official policy or act with which he disagreed with, and thus hinders the activities of governmental agencies engaged in public service, the United State Supreme Court laid down the more stringent "**direct injury**" **test** in *Ex Parte Levitt*,[220] later reaffirmed in *Tileston v. Ullman.*[221] The same Court ruled that for a private individual to invoke the judicial power to determine the validity of an executive or legislative action, **he must show that he has sustained a direct injury as a result of that action, and it is not sufficient that he has a general interest common to all members of the public.**

"This Court adopted the **"direct injury" test** in our jurisdiction. In *People v. Vera*,[222] it held that the person who impugns the validity of a statute must have "**a personal and substantial interest in the case such that he has sustained, or will sustain direct injury as a result**." The *Vera* doctrine was upheld in a litany of cases, such as, *Custodio v. President of the Senate*,[223] *Manila Race Horse Trainers' Association v. De la Fuente*,[224] *Pascual v. Secretary of Public Works*[225] and *Anti-Chinese League of the Philippines v. Felix.*[226]

---

[216] Salonga v. Warner Barnes & Co., 88 Phil. 125 (1951).
[217] 275 Ky 91, 120 SW2d 765 (1938).
[218] 19 Wend. 56 (1837).
[219] 232 NC 48, 59 SE2d 359 (1950).
[220] 302 U.S. 633.
[221] 318 U.S. 446.
[222] 65 Phil. 56 (1937).
[223] G.R. No. 117, November 7, 1945 (Unreported).
[224] G.R. No. 2947, January 11, 1959 (Unreported).
[225] 110 Phil. 331 (1960).
[226] 77 Phil. 1012 (1947).

4. Under Section 2, Artcle XVII of the 1987 Constitution, the people's initiative to amend the constitution may be pursued through "a petition of at least twelve *per centum* of the total number of registered voters, of which every legislative district must be represented by at least three *per centum* of the registered voters therein. (underscoring supplied). Thus, a people's initiative to amend to constitution is reserved to the registered voters, and not merely to qualified voters, nor to Filipino citizens.

5. In view of the foregoing, petitioners hereby incorporate by reference its arguments on the legal standing of the opposing parties as discussed in petitioners' Consolidated Reply dated 19 September 2006 and Consolidated Reply dated 25 September 2006.

ANNEX "B"
SUPPLEMENTAL ARGUMENTS ON
THE SUFFICIENCY OF THE PETITION

1. Petitioners note that the matters of form, substance and sufficiency of the petition for initiative, are generally factual in nature. Accordingly, petitioners submit that these factual matters are more properly addressed, and in fact have already been effectively addressed, by the COMELEC *en banc* and the COMELEC Election Officers.

2. In any case, in connection with the determination of the sufficiency in form and substance of the petition for initiative on the constitution lodged with the COMELEC below, it is useful to restate the rules and principles governing the matter as follows:

(a) *Purpose of initiative.*- There is persuasive authority to the effect that "the adoption of the initiative and the referendum as a part of the organic law in some jurisdictions came about as a result of the growth of dissatisfaction and distrust of the people for their legislative bodies…"[227] The purpose of the initiative is "to empower the people, in case the legislature fails to act, to enact such measures themselves."[228]

(b) *Filing of initiative; qualification of petitioners; registered voters.*- By necessary implication of the purpose of an initiative, national and local executive

[227] 82 C.J.S. S116. Wash.-State v. Howell, 181 P. 920, 107 Wash. 167.
[228] 82 C.J.S. S116. S.D.-State v. Whisman, 154 N.W. 707, 36 S.Ct. 449, 241 U.S. 643, 60 L.Ed. 1218.

government officials, who are themselves registered voters, and who share the dissatisfaction and distrust of the people for the legislature, specifically the Upper House or the Senate, are entitled to support the initiative. We note that Section 2, Article XVII of the 1987 Constitution does not in any manner prohibit public officials from supporting or joining a petition for initiative. The constitutional provisions merely speak about right of initiative reserved to at least 12% of the total registered voters, where each legislative district is represented by 3% of the registered voters therein. Thus, where public officials are also registered voters, and they exercise their rights as such registered voters, then they are entitled to support and join a petition for initiative, just like any other Filipino registered voter. We note that there is an evidentiary presumption "(t)hat the law has been obeyed."[229]

(c) *Filing of initiative; proponents*.- There is persuasive authority to the effect that "(t)he person who circulates a petition is the agent of the signers,"[230] and that "(t)he circulator of a petition is of the nature of an election official to whom the elector gives direction, by signing the petition, that the act shall be submitted to the people…"[231] Thus, petitioners Raul L. Lambino and Erico B. Aumentado, being the main proponents of the petition for initiative filed with the COMELEC below, are deemed the agents of the 6,327,952 registered voters who signed the signature sheets circulated together with the petition, for the purpose of filing and prosecuting the petition for initiative. The signature sheets accompanying the petition for initiative expressly provide as follows: "I hereby APPROVE the proposed amendment to the 1987 Constitution. My signature herein which shall form of the part of the petition for initiative to amend the Constitution signifies my support for the filing thereof." (underscoring supplied)

(d) *Circulation of petition; presumption of sufficiency.*- There is an evidentiary presumption "(t)hat the law has been obeyed."[232] There is persuasive authority to the effect that "statutory provisions relating to the circulation of petitions are to be liberally

[229] Section 2(ff), Rule 131, Rules of Court.
[230] 82 C.J.S. S131. S.D.-Morford v. Pyle, 220 N.W. 907, 53 S.D. 356.
[231] 82 C.J.S. S131. Ark.-Sturdy v. Hall, 143 S.W.2d 547, 201 Ark. 38.
[232] Section 2(ff), Rule 131, Rules of Court.

construed,"[233] and that "a substantial compliance therewith is sufficient."[234] Thus, the circulation of the petition for initiative, together with the signature sheets, undertaken by the proponents of the petition filed with the COMELEC below, are presumed to be compliant with the requirements of the laws and implementing rules and regulations.

(e) *Circulation of petition; signature stations*.- Neither the 1987, nor Republic Act No. 6735, requires the mandatory establishment of signatures stations, with the participation of COMELEC, for purposes of gathering signatures to an initiative on the Constitution. Section 13(f) of Republic Act No. 6735, which provides for the voluntary establishment of signatures stations, expressly applies only to local initiatives. It does not apply to national initiatives, much less to initiatives on the constitution. In the same manner, Section 15 of COMELEC Resolution No. 2300 pertains to Article II on Local Initiative and Referendum, and not to initiatives on the Constitution. While Sections 29[235] and 41[236] of COMELEC Resolution No. 2300, which governs initiative on the constitution, also provides for signature stations, the express language of the provision is obviously not mandatory but is rather voluntary on the part of the proponent and the COMELEC. Accordingly, the proponent is free to gather signatures, in pursuing a petition for initiative on the Constitution, without need for establishing of signature stations with the participation of COMELEC. Otherwise, the initiative will be a COMELEC initiative, and not a people's initiative.

(f) *Circulation of petition; comprehension of signers*.- There is an evidentiary presumption that "a person take ordinary care of his concerns."[237] Accordingly, a signer is presumed to understand what he signs. There is persuasive authority to the effect that "(w)here there is not fraud, a signer who did not read the measure attached to a referendum petition cannot question his signature on the ground that he did not

[233] 82 C.J.S. S131. N.D.-Schumacher v. Byrne, 237 N.W. 741, 61 N.D. 220.
[234] 82 C.J.S. S131. Okl.-In re State Question No. 137, 244 P. 806, 114 Okl. 132.
[235] "Article III, National Initiative and Referendum … Signature stations – Signature stations may be established by the proponents with the assistance of the Election Registrar in as many places in the municipality as may be warranted." (underscoring supplied)
[236] "Article V, Initiative on the Constitution … Procedure – An initiative on the Constitution shall be conducted under the control and supervision of the Commission in accordance with Article III thereof."
[237] Section 3(d), Rule 131, Rules of Court.

understand the nature of the act."[238] Thus, the registered voters who signed the signature sheets circulated together with the petition for initiative filed with the COMELEC below, are presumed to have understood the proposition contained in the petition.

(g) *Circulation of petition; withdrawal of signers*.- There is persuasive authority to the effect that "(t)he right to withdraw, like the right to sign, is a personal privilege and can be exercised only by the person directly concerned."[239] "Generally, signers of a petition may withdraw without showing good cause therefor at any time prior to the filing of the instrument with the officer or body to which it is addressed."[240] "In some jurisdictions, a signature may be withdrawn after the instrument has been filed but before it has been acted upon, that is, prior to certification by the examining officer."[241] "There is authority to the effect that certification by the local officer to the state officer terminates the right to withdraw…"[242] By necessary implication, considering that the Election Officers have completed the verification of the signatures submitted to them, then it reasonably follows that the signatures can no longer be withdrawn.

(h) *Circulation of petition; genuineness of signatures; presumption of genuineness*.- There is persuasive authority to the effect that "(i)n the absence of evidence of intentional fraud or guilty knowledge on the part of the circulator, the names on a petition properly verified are presumed to be genuine."[243] "A petition purporting to be signed in compliance with the statutory requirements is prima facie proof of the genuineness of the signatures."[244] "(T)he burden is on him, who attacks their genuineness, to prove that they are not genuine."[245] "The fact that some of the signatures on a petition are not genuine does not authorize the rejection of the entire petition…."[246] There is an evidentiary presumption "(t)hat the law has been obeyed."[247] Thus, the signatures of the signers are presumed to be genuine.

---

[238] 82 C.J.S. S128h. Mo.-State v. Sullivan, 224, S.W. 327, 283 Mo. 546.
[239] 42 Am Jur 2d S31. State ex rel. Hindley v Superior Ct. 70 Wash 352, 126 P 920.
[240] 42 Am Jur 2d S31. Uhl v Collins, 217 Cal 1, 17 P2d 99, 85 ALR 1370.
[241] 42 Am Jur 2d S31. Gulf Shores v. Coggin, 269 Ala 233, 112 So 2d 793. State ex rel. Kahle v. Rupert, 99 Ohio St 17, 122 NE 39.
[242] 42 Am Jur 2d S31. State ex rel. Harris v Hinkle, 130 Wash 419, 227 P 861.
[243] 42 Am Jur 2d S54. Re Initiative Petition No. 260 (Okla) 298 P2d 753.
[244] 82 C.J.S. S82f. Me.-In re Opinion of the Justices, 137 A. 53, 126 Me. 620.
[245] 82 C.J.S. S82f. Or.-State v. Olcott, 135 P. 902, 67 Or. 214.
[246] 42 Am Jur 2d S38. State ex rel. Noyes v Lane, 89 W Va 744, 110 SE 180.
[247] Section 2(ff), Rule 131, Rules of Court.

(i) *Circulation of petition; fraud of proponents*.- "There is an evidentiary presumption "(t)hat the law has been obeyed."[248] "In all averments of fraud or mistake, the circumstances constituting fraud or mistake must be stated with particularity."[249] Thus, the circulation of the petition for initiative, together with the signature sheets, undertaken by the proponents of the petition filed with the COMELEC below, are presumed to be in good faith and without any fraud or mistake.

(j) *Verification of signatures*.- There are evidentiary presumptions "(t)hat official duty has been regularly performed;"[250] "(t)hat all issues relevant were raised;"[251] and "(t)hat the law has been obeyed."[252] There is persuasive authority to the effect that "(t)here is a presumption that petitions that have been circulated, signed, and filed are valid, and the burden of proof to show their invalidity rests upon those protesting against them."[253] Thus, the verification of the signatures, performed by COMELEC Election Officers in the performance of their administrative functions, is presumed to be regular. There is also persuasive authority to the effect that "if an officer fails to count the signatures, he may be forced to concede the sufficiency of the signatures on the petition."[254] Thus, the failure of COMELEC Election Officers to perform their administrative functions to verify signatures will not bar the petition, but will instead deem the petition sufficient.

(k) *Verification of signatures; notice*.- Neither the 1987 Constitution, nor Republic Act No. 6735, requires that public notice must be made, either by the proponents or the COMELEC, in connection with the circulation of the petition and the gathering of signatures. In any case, the conduct of verification by the COMELEC Election Officers and staff is open to the general public. At the end of the day, the interest of the public is safeguarded by the COMELEC through the process of verification of signatures. A copy of the Certification issued by Atty. Ma.Lourdes A. Ugalino,

[248] Section 2(ff), Rule 131, Rules of Court.
[249] Section 5, Rule 8, Rules of Court.
[250] Section 3(m), Rule 131, Rules of Court.
[251] Section 3(o), Rule 131, Rules of Court.
[252] Section 3(ff), Rule 131, Rules of Court.
[253] 42 Am Jur 2d S54. Re Initiative Petition, 35 Okla 49, 127 P 862. Re Initiative Petition, supra.
[254] 42 Am Jur 2d S38. State ex rel. Plymale v. Garner, 147 W Va 293, 128 SE2d 185.

COMELEC Election Officer IV of District I, Makati City, regarding the transparent conduct of verification in their district, consisting of one (1) page, is attached as Exhibit "F." A copy of the letter sent by COMELEC Makati District I to Mabini regarding the date, time and place of verification, consisting of two (2) pages, is attached as Exhibit "G." A copy of the letter sent by Mabini to COMELEC Makati District I regarding the date, time and place of verification, consisting of one (1) page, is attached as Exhibit "H."

(l) *Verification of signatures; manner of verification; comparison of signatures*.- "Laws are repealed only by subsequent ones, and their violation or non-observance shall not be excused by disuse, or custom or practice to the contrary. When the courts declare a law to be inconsistent with the Constitution, the former shall be void and the latter shall govern. Administrative or executive acts, orders and regulations shall be valid only when they are not contrary to the laws of the Constitution."[255] The manner of verification by way of comparison of signatures is expressly provided for by Section 7 of Republic Act No. 6735. Accordingly, the manner of verification is presumed to be lawful.

(m) *Verification of signatures; certification of genuineness; binding effect*.- There is persuasive authority to the effect that "(t)he rule in some jurisdictions is that the findings of local administrative officers as to the genuineness of signatures to a petition are conclusive on the secretary of state."[256] "Where the determination of the genuineness of signatures on an initiative petition is vested solely in local officers authorized to determine such questions, their determination and certification to the secretary of state that initiated signatures are genuine is not reviewable by him."[257] "(A)lthough such officers may not be specifically required to return their certificates to the secretary of state, the certificates are, nevertheless, the prescribed official evidence of their decisions as to validity of signatures."[258] By necessary implication, considering that the Election Officers have completed the verification of the signatures submitted to them, it then reasonably follows that the findings of genuineness of the signatures can no longer be reviewed by the COMELEC *en banc*.

[255] Article 7, Civil Code of the Philippines.
[256] 42 Am Jur 2d S38. State ex rel. Case v Superior Court, 81 Wash 623, 143 P 461.
[257] 82 C.J.S. S82f. Wash.-State v. Thurston County Super. Ct., 143 P. 461, 81 Wash. 623.
[258] 82 C.J.S. S82f. Wash.-State v. Thurston County Super. Ct., supra.

(n) *Verification of petition.*- "Except when otherwise specifically required by law or rule, pleadings need not be under oath, verified or accompanied by affidavit. A pleading is verified by an affidavit that the affiant has read the pleading and that the allegations therein are true and correct of his personal knowledge or based on authentic documents."[259] Petitioners Lambino and Aumentado, who are the main proponents of the initiative, have properly verified the petitions they filed with this Court and the COMELEC.

(o) *Sufficiency of petition; presumption of sufficiency.*- There is an evidentiary presumption "(t)hat the law has been obeyed."[260] There is persuasive authority to the effect that "(t)here is a presumption that petitions that have been circulated, signed, and filed are valid, and the burden of proof to show their invalidity rests upon those protesting against them."[261] Thus, the petition for initiative filed before the COMELEC below, by petitioners Raul L. Lambino, Erico B. Aumentado and 6,327,952 registered voters, are presumed to be sufficient in form and substance.

(p) *Opposition to initiative; real party in interest.*- A petition for initiative is one for registered voters.[262] There is persuasive authority to the effect that "(u)nder, and in compliance with, constitutional and statutory provisions, any qualified elector has the right to challenge the sufficiency of a petition."[263] Accordingly, it reasonably follows that a person who is not a registered voter, has no right to challenge the sufficiency of a petition.

(q) *Opposition to initiative; real party in interest; juridical person.*- There is persuasive authority to the effect that "(a) firm or corporation, as such, cannot sign a referendum petition."[264] Accordingly, it reasonably follows that corporations as such, cannot sign oppositions to a petition for initiative, in the same manner that corporations as such, cannot sign a petition for initiative.

---

[259] Section 4, Rule 7, Rules of Court.
[260] Section 2(ff), Rule 131, Rules of Court.
[261] 42 Am Jur 2d S54. Re Initiative Petition, 35 Okla 49, 127 P 862. Re Initiative Petition, supra.
[262] Section 2, Article XVII, 1987 Constitution.
[263] 82 C.J.S. S128a. Okl. In re Initiative Petition, etc. 110 P. 647, 26 Okl. 554.
[264] 82 C.J.S. S123(b). Okl.-In re Referendum Petition on House Bill No. 509, 1919 Legislature, 186 P. 485, 78 Okl. 47.

(r) *Opposition to petition; manner of opposition.*- A petition for initiative is one for registered voters.[265] There is persuasive authority to the effect that "(u)nder, and on compliance with, constitutional and statutory provisions, any qualified elector has the right to challenge the sufficiency of a petition."[266] The challenge must be made "within the proper time."[267] "A protest must state specifically the grounds on which it is made."[268] "Protests must state specifically the names protested."[269]

(s) *Opposition to petition; presumption of sufficiency of petition.*- In any case, opposers have the burden of proof to rebut the evidentiary presumptions as follows: "(t)hat official duty has been regularly performed;"[270] "(t)hat all issues relevant were raised;"[271] "(t)hat the law has been obeyed."[272]

(t) *Coverage of proposition; change in form of government.*- The nature and extent of the proposition is a matter of political wisdom and not a matter for judicial adjudication. In any case, the proposition does not seek to grant the incumbent President any power that she does not already have under the present bicameral-presidential system. The proposition merely seeks to respect and preserve the powers that are already vested in the incumbent President. The proposition also seeks to respect and preserve the tenure of the incumbent Vice-President and the Senators. The proposition does not in any way seek to extend the terms of office of any incumbent elective official, because (1) the elections for members of parliament will be synchronized with the elections for local officials, (2) the elections for local officials are scheduled on second Monday of May 2007, and (3) the proposition does not seek to amend the provision on term of office of local officials. The proposition does not in any way encroach upon the powers and independence of the Supreme Court.

(u) *Language of proposition; change in form of government.*- There is analogous and persuasive authority to the effect that the inclusion of "questionable and ambiguous

---

[265] Section 2, Article XVII, 1987 Constitution.
[266] 82 C.J.S. S128a. Okl. In re Initiative Petition, etc. 110 P. 647, 26 Okl. 554.
[267] 82 C.J.S. S128a. Okl. In re Initiative Petition, etc., supra.
[268] 82 C.J.S. S128a. Colo.-Ramer v. Wright, 159 P. 1145, 62 Colo. 53.
[269] 82 C.J.S. S128a. Colo.-Ramer v. Wright, supra.
[270] Section 3(m), Rule 131, Rules of Court.
[271] Section 3(o), Rule 131, Rules of Court.
[272] Section 3(ff), Rule 131, Rules of Court.

provisions" does not affect the validity of the proposition to amend the Constitution.[273] "Alexander Hamilton, one of the leading founders and defenders of the American Constitution, answering the critics of the Federal Constitution, stated that: 'I never expect to see a perfect work from imperfect man The result of the deliberations of all collective bodies must necessarily be a comound, as well of the errors and prejudices as of the good sense and wisdom, of the individuals of whom they are composed. The compacts which are to embrace thirteen distinct States in a common bond of amity and union, must necessarily be a compromise of as many dissimilar interests and inclinations. How can perfection spring from such materials?' (The Federalist, Modern Library Ed., pp. xx-xxi)"[274] Thus, the alleged ambiguous provisions in the proposition (such as the silence of the provisions regarding the powers and functions of the head of state; the operation of the catch-all provision regarding the implied amendment of other provisions which are inconsistent with the unicameral-parliamentary system of government; the provision directing the interim Parliament to convene as a constituent assembly within 45 days from the approval of the proposed amendments to the constitution) should not affect the validity of the said proposition, but should instead be given a reasonable interpretation to effectuate the political intent and will of the people.

[273] Javellana v. Executive Secretary, G.R. No. L-36142, 31 March 1973, Separate Opinion, J. Makasiar.
[274] Id.

ANNEX "C"
SUPPLEMENTAL ARGUMENTS
ON THE AUTHORITY OF COMELEC
ELECTION OFFICERS TO VERIFY SIGNATURES

The COMELEC Election Officers are empowered, authorized and mandated, under the constitution,[275] the law,[276] and the implementing rules and regulations,[277] to verify upon request, the signatures supporting an initiative to amend the constitution, on the basis of the registry list of voters, voters' affidavits, and voters' identification cards used in the immediately preceding election.

People's right of initiative

[275] Id, Article IX C, Section 2(1).- "The Commission on Elections shall exercise the following powers and functions: (1) Enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum, and recall…" (underscoring supplied)

[276] Republic Act No. 6735, The Initiative and Referendum Act, Section 2.- "Statement of Policy.- The power of the people under a system of initiative and referendum to directly propose, enact, approve or reject, in whole or in part, the Constitution, laws, ordinances, or resolutions passed by any legislative body upon compliance with the requirements of this Act is hereby affirmed, recognized and guaranteed." (underscoring supplied)

Section 3. "Definition of Terms.- For purposes of this Act, the following terms shall mean:

(a) 'Initiative' is the power of the people to propose amendments to the Constitution or to propose and enact legislations through an election called for the purpose.

There are three (3) systems of initiative, namely:

a.1. Initiative on the Constitution which refers to a petition proposing amendments to the Constitution…

(b) 'Indirect initiative' is exercise of initiative by the people through a proposition sent to Congress or the local legislative body for action…" (underscoring supplied)

Section 4. "Who may exercise.- The power of initiative and referendum may be exercised by all registered voters of the country, autonomous regions, provinces, cities, municipalities and barangays." (underscoring supplied)

Section 5. "Requirements… (b) A petition for initiative on the 1987 Constitution must have at least twelve per centum (12%) of the total number of registered voters as signatories, of which every legislative district must be represented by at least three per centum (3%) of the registered voters therein. Initiative on the Constitution may be exercised only after five (5) years from the ratification of the 1987 Constitution and only once every five (5) years thereafter." (underscoring supplied)

Section 7. "Verification of Signatures.- The Election Registrar shall verify the signatures on the basis of the registry list of voters, voters' affidavits and voters' identification cards used in the immediately preceding election." (underscoring supplied)

Section 8. "Conduct and Date of Initiative or Referendum.- The Commission shall call and supervise the conduct of initiative or referendum." (underscoring supplied)

[277] COMELEC Resolution No. 2300, Sections 39-42, 26-36, 16 January 1991.

Section 30. "Verification of Signatures – The Election Registrar shall verify the signatures on the basis of the registry list of voters, voter's affidavits and voter's identification cards used in the immediately preceding election." (underscoring supplied)

1. At the outset, we note that the 1987 Philippine Constitution expressly recognizes and acknowledges the sovereignty of the Filipino people,[278] and their constitutional rights to freedom of speech,[279] of expression,[280] to peaceably assemble and petition the government for redress of grievances,[281] as well as their rights to peaceably pursue and protect their legitimate and collective interests,[282] and to effective reasonable participation at all levels of political decision-making.[283] We also note that the Constitution expressly reserves to the Filipino people the right to propose amendments to the Constitution through their own initiative.[284]

2. In this regard, it is useful to note the view of *J. Puno*, in his concurring and dissenting opinion, in the case of *Santiago v. COMELEC,*[285] as follows:

> "Their solicitation of signatures is a right guaranteed in black and white by section 2 of Article XVII of the constitution… This right springs from the principle proclaimed in section 1, Article II of the constitution that in a democratic and republican state "sovereignty resides in the people and all government authority emanates from them." The Pedrosas are part of the people and their voice is part of the voice of the people. They may constitute but a particle of our sovereignty but no power can trivialize them for sovereignty is indivisible. (underscoring supplied)
>
> "But this is not all… (Section 16 of Article XIII) is another novel provision of the 1987 Constitution strengthening the sinews of the sovereignty of our people. In soliciting signatures to amend the Constitution, the Pedrosas are participating in the political decision-making process of our people. The Constitution says their right cannot be abridged without any ifs and buts. We cannot put a question mark on their right. (underscoring supplied)
>
> "Over and above these new provisions, the Pedrosas' campaign to amend the Constitution is an exercise of their freedom of speech and expression and their right to petition the government for redress of grievances… (underscoring supplied)
>
> "It is thus evident that the right of the Pedrosas to solicit signatures to start a people's initiative to amend the Constitution does not depend on any law, much less on R.A. No. 6735 or COMELEC Resolution No. 2300. No law, no Constitution can chain the people to an undesirable status quo. To be sure, there are no irrepealable laws just as there are no irrepealable Constitution. Change is the predicate of progress and we should not fear change. Mankind has long recognized the truism that the only constant in life is change and so should the majority…

---

[278] Supra Constitution, Preamble and Article II, Section 1.
[279] Id, Article III, Section 4.
[280] Id.
[281] Id.
[282] Id, Article XIII, Section 15.
[283] Id, Article XIII, Section 16.
[284] Id, Article XVII, Section 2.
[285] Supra Santiago v. COMELEC, J. Puno, concurring and dissenting opinion, Parts III-IV.

> "The Constitution calls us to encourage people empowerment to blossom in full. The Court cannot halt any and all signature campaigns to amend the Constitution without setting back the flowering of people empowerment. More important, the Court cannot seal the lips of people who are pro-change but not those who are anti-change without converting the debate on charter change into a sterile talkation. Democracy is enlivened by a dialogue and not by a monologue for in a democracy nobody can claim any infallibility."

3. It is likewise useful to note the view of *J. Panganiban*, in his concurring and dissenting opinion, in the same case of *Santiago v. COMELEC,*[286] as follows:

> "I am glad the majority decided to heed our plea to lift the temporary restraining order issued by this Court on 18 December 1996 insofar as it prohibited Petitioner Delfin and the Spouses Pedrosa from exercising their right of initiative. In fact, I believe that such restraining order as against private respondents should not have been issued, in the first place. While I agree that the COMELEC should be stopped from using public funds and government resources to help them gather signatures, I firmly believe that this Court has no power to restrain them from exercising their right of initiative. <u>The right to propose amendments to the Constitution is really a species of the right of free speech and free assembly. And certainly, it would be tyrannical and despotic to stop anyone from speaking freely and persuading others to conform to his/her beliefs</u>." (underscoring supplied)

4. Thus, the people's right to propose amendments to the constitution through their own initiative, arises from their sovereignty, and their constitutional political rights. In other words, the people are inherently, ultimately and constitutionally empowered to propose amendments to the constitution through initiative, by reason of their sovereignty, and their constitutional rights.

<u>Comelec's duty on initiative</u>

5. In view of the foregoing, we note that the 1987 Constitution expressly empowers, authorizes and mandates the COMELEC to enforce and administer all laws and regulations relative to the conduct of an initiative.[287]

6. Pursuant to the foregoing constitutional mandate, we also note that Congress enacted the *Initiative and Referendum Act* that expressly empowers, authorizes and mandates the COMELEC to supervise the conduct of an initiative.[288] The statute also provides that the signatures supporting an initiative on the constitution shall be verified on the basis of the registry list of voters, voters' affidavits and voters' identification cards used in the immediately preceding election.[289]

---

[286] Id, J. Panganiban, concurring and dissenting opinion.
[287] Supra Constitution, Article IX C, Section 2(1).
[288] Supra Republic Act No. 6735, Section 8.
[289] Id, Section 7.

7. Pursuant to the foregoing constitutional and statutory mandate, we finally note that COMELEC issued Resolution No. 2300 which provides for the verification of signatures supporting an initiative on the constitution on the basis of the registry list of voters, voter's affidavits and voter's identification cards used in the immediately preceding election.[290]

8. Under the premises, it reasonably follows that the COMELEC Election Officers are empowered, authorized and mandated, under the constitution,[291] the law,[292] and the implementing rules and regulations,[293] to verify upon request, the signatures supporting an initiative to amend the constitution, on the basis of the registry list of voters, voters' affidavits, and voters' identification cards used in the immediately preceding election.

Santiago v. Comelec

9. In this regard, it is useful to note that in the opinion of the Decision of the *Santiago* case dated 19 March 1997,[294] the Supreme Court made a distinction between the

[290] COMELEC Resolution No. 2300, Section 30, 16 January 1991.
[291] Id, Article IX C, Section 2(1).- "The Commission on Elections shall exercise the following powers and functions: (1) Enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum, and recall…" (underscoring supplied)
[292] Republic Act No. 6735, The Initiative and Referendum Act, Section 2.- "Statement of Policy.- The power of the people under a system of initiative and referendum to directly propose, enact, approve or reject, in whole or in part, the Constitution, laws, ordinances, or resolutions passed by any legislative body upon compliance with the requirements of this Act is hereby affirmed, recognized and guaranteed." (underscoring supplied)
Section 3. "Definition of Terms.- For purposes of this Act, the following terms shall mean:
(a) 'Initiative' is the power of the people to propose amendments to the Constitution or to propose and enact legislations through an election called for the purpose.
There are three (3) systems of initiative, namely:
a.1. Initiative on the Constitution which refers to a petition proposing amendments to the Constitution…
(b) 'Indirect initiative' is exercise of initiative by the people through a proposition sent to Congress or the local legislative body for action…" (underscoring supplied)
Section 4. "Who may exercise.- The power of initiative and referendum may be exercised by all registered voters of the country, autonomous regions, provinces, cities, municipalities and barangays." (underscoring supplied)
Section 5. "Requirements… (b) A petition for initiative on the 1987 Constitution must have at least twelve per centum (12%) of the total number of registered voters as signatories, of which every legislative district must be represented by at least three per centum (3%) of the registered voters therein. Initiative on the Constitution may be exercised only after five (5) years from the ratification of the 1987 Constitution and only once every five (5) years thereafter." (underscoring supplied)
Section 7. "Verification of Signatures.- The Election Registrar shall verify the signatures on the basis of the registry list of voters, voters' affidavits and voters' identification cards used in the immediately preceding election." (underscoring supplied)
Section 8. "Conduct and Date of Initiative or Referendum.- The Commission shall call and supervise the conduct of initiative or referendum." (underscoring supplied)
[293] COMELEC Resolution No. 2300, Sections 39-42, 26-36, 16 January 1991.
Section 30. "Verification of Signatures – The Election Registrar shall verify the signatures on the basis of the registry list of voters, voter's affidavits and voter's identification cards used in the immediately preceding election." (underscoring supplied)
[294] Supra Santiago v. COMELEC.

act of filing a petition for initiative, and the act of securing the verification of signatures supporting a petition for initiative.[295] The former involved the filing of an *initiatory pleading*, while the latter involved the preparation of an *initiatory pleading* prior to filing.[296] The former was the act cognizable by the COMELEC sitting *en banc*, while the latter was cognizable by the COMELEC Election Registrars.[297]

10. In the same opinion of the cited Decision, the Supreme Court also stated that "the COMELEC should be permanently enjoined from entertaining or taking cognizance of any petition for initiative on amendments on the Constitution until a sufficient law shall have been validly enacted to provide for the implementation of the system."[298] Thus, in the opinion of the cited Decision, the act sought to be enjoined was the "taking cognizance of any petition for initiative."[299] This was the act "cognizable by the COMELEC, sitting *en banc*."[300] There was nothing written in the opinion of the cited Decision, which expressly provided or otherwise implied, that the act of the COMELEC Election Registrars in verifying the supporting signatures, in the course of preparing the petition prior to filing, should also be enjoined.[301]

11. In relation to the foregoing, it is also useful to note that in the *fallo* or dispositive portion of the cited Decision, the Supreme Court limited its disposition to ordering the COMELEC to dismiss the Delfin petition, making permanent the temporary restraining order against the COMELEC, but lifting the same against Delfin and the Pedrosas.[302]

12. Considering that the Delfin petition therein was fatally defective because it did not contain the required supporting signatures, it is evident that the disposition of the cited Decision which made the temporary restraining order permanent, pertained only to the act of the COMELEC *en banc* in taking cognizance of the said Delfin petition for initiative, and not to the act of the COMELEC election registrars in verifying the

[295] Id, Part IV, Paragraph 3.
[296] Id.
[297] Id.
[298] Id, Conclusion, Paragraph 1.
[299] Id.
[300] Id, Part IV, Paragraph 3.
[301] Id, Part IV and Conclusion.
[302] Id, Disposition.

supporting signatures.[303] The only matter presented to the COMELEC then was a fatally defective Delfin petition for initiative.[304] Delfin did not present any supporting signatures to the COMELEC for verification.[305]

13. Moreover, the disposition of the cited Decision lifted the temporary restraining order against Delfin and the Pedrosas in connection with their drive to gather signatures to support a petition for initiative.[306] Even J. Davide, Jr., who wrote the Decision of 19 March 1997, conceded in his separate opinion attached to the minute Resolution of 10 June 1997 (denying with finality the motion for reconsideration), the right of the Pedrosas to gather signatures supporting a petition for initiative, as follows:

> "(T)he Pedrosas are not prevented from engaging in that endeavor (of gathering signatures for an initiative on Constitutional amendments) if they so wish; precisely, we lifted the temporary restraining order as against them."[307]

14. Wherefore, considering further the lifting of the temporary restraining order against Delfin and the Pedrosas in connection with their drive to gather signatures to support a petition for initiative, it is only reasonable to conclude that even the disposition of the cited Decision effectively allowed them to take the next logical step of securing the verification of the signatures gathered by the COMELEC election registrars, short of filing a petition for initiative with the COMELEC *en banc*. This is so because any and all signatures gathered would not have any political value unless and until verified by the COMELEC election registrars.

15. In this regard, it is useful to note that the verified signatures of registered voters may be employed to support, not only a direct initiative, but also an indirect initiative,[308] to amend the constitution. In other words, the verified signatures may be lodged, not only with the COMELEC *en banc* by way of a direct initiative, but also with Congress by way of an indirect initiative,[309] to propose amendments to the constitution.

---

[303] Id, Part IV, Paragraph 3.
[304] Id, Paragraph 2.
[305] Id.
[306] Id, Disposition, Paragraph 2.
[307] Supra Santiago v. COMELEC, Resolution of 10 June 1997, J. Davide, Jr., separate opinion, Part V, Paragraph 1.
[308] See Republic Act No. 6735, Sections 3(b) and 11. See also Comelec Resolution No. 2300, Sections 37-38.
[309] Id.

16. Accordingly, pursuant to the opinion and disposition in the *Santiago* case dated 19 March 1997, regarding the authority of COMELEC Election Registrars to verify upon request signatures supporting an initiative to amend the constitution, the COMELEC issued memoranda[310] to this effect in connection with the present petition.

PIRMA v. Comelec

17. It is argued that the disposition of the cited Decision of the *Santiago* case barred not only the COMELEC *en banc* from taking cognizance of a petition for initiative, but also the COMELEC election registrars from verifying the supporting signatures, because in the subsequent but closely related case of *PIRMA v. COMELEC*,[311] the Pedrosas already attached the supporting signatures to their new petition for initiative lodged with the COMELEC *en banc*, but the petition was still dismissed.

18. A reading of the minute Resolution of 23 September 1997 (dismissing the petition for certiorari) however shows that the dismissal of the subsequent petition did not result from any determinative adjudication of the closely related issues involving the requirement for and verification of supporting signatures.[312] The resolution merely cited the ground of lack of grave abuse of discretion.[313] Moreover, in the separate opinion of J. Davide, Jr. attached to the resolution of the *Pirma* case, he explained that the new petition was merely a continuation of the old petition, and was therefore barred by the principle of *res judicata.*[314] J. Bellosillo in his separate opinion cited the same principle of *res judicata* as he explained his vote for the dismissal of the new petition.[315]

19. Under the premises, it is therefore evident that even the opinion and disposition of the Decision of the *Santiago* case dated 19 March 1997, expressly acknowledged, and effectively allowed, the participation of the COMELEC through its election registrars, to verify the signatures supporting an initiative to amend the

[310] Comelec Memorandum dated 30 March 2006, addressed to the Regional Election Directors of Regions II, III and V, by Romeo A. Brawner, Commissioner -in-Charge for Regions II, III and V. Comelec Memorandum dated 27 March 2006, addressed to Director Adolfo A. Ibanez, Regional Election Director for Region VIII, by Atty. Alioden D. Dalaig, Director IV, Law Department.
[311] People' Initiative for Reform, Modernization and Action, et al, v. Commission on Elections, et al, G.R. No. 129754, 23 September 1997,
[312] Id.
[313] Id.
[314] Id, J. Davide, Jr., separate opinion, pages 2-3.
[315] Id, J. Bellosillo, separate opinion, pages 15-18.

constitution, on the basis of the registry list of voters, voters' affidavits, and voters' identification cards used in the immediately preceding election.

ANNEX "D"
SUPPLEMENTAL ARGUMENTS ON THE AUTHORITY OF THE COMELEC EN BANC TO GIVE DUE COURSE TO A PETITION FOR INITIATIVE

The COMELEC en banc is empowered, authorized and mandated, under the constitution,[316] the law,[317] and the implementing rules and regulations,[318] to give due course and determine the sufficiency of a petition for initiative to amend the constitution, order its publication and set the plebiscite.

1. As discussed above in the arguments on the Congressional implementation of the people's initiative, the Constitutional provisions on initiative are essentially self-executory, and the Congressional implementation of the initiative contemplate only the appropriation of public funds for the conduct of a plebiscite and other related procedural election matters,[319] and such matters are already covered by Republic Act No. 7635, Republic Act No. 8189 and Republic Act No. 9336 or the General Appropriations Act for

---

[316] Id, Article IX C, Section 2(1).- "The Commission on Elections shall exercise the following powers and functions: (1) Enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum, and recall…" (underscoring supplied)

[317] Republic Act No. 6735, The Initiative and Referendum Act, Section 2.- "Statement of Policy.- The power of the people under a system of initiative and referendum to directly propose, enact, approve or reject, in whole or in part, the Constitution, laws, ordinances, or resolutions passed by any legislative body upon compliance with the requirements of this Act is hereby affirmed, recognized and guaranteed." (underscoring supplied)

Section 3. "Definition of Terms.- For purposes of this Act, the following terms shall mean:

(a) 'Initiative' is the power of the people to propose amendments to the Constitution or to propose and enact legislations through an election called for the purpose.

There are three (3) systems of initiative, namely:

a.1. Initiative on the Constitution which refers to a petition proposing amendments to the Constitution…

(b) 'Indirect initiative' is exercise of initiative by the people through a proposition sent to Congress or the local legislative body for action…" (underscoring supplied)

Section 4. "Who may exercise.- The power of initiative and referendum may be exercised by all registered voters of the country, autonomous regions, provinces, cities, municipalities and barangays." (underscoring supplied)

Section 5. "Requirements… (b) A petition for initiative on the 1987 Constitution must have at least twelve per centum (12%) of the total number of registered voters as signatories, of which every legislative district must be represented by at least three per centum (3%) of the registered voters therein. Initiative on the Constitution may be exercised only after five (5) years from the ratification of the 1987 Constitution and only once every five (5) years thereafter." (underscoring supplied)

Section 7. "Verification of Signatures.- The Election Registrar shall verify the signatures on the basis of the registry list of voters, voters' affidavits and voters' identification cards used in the immediately preceding election." (underscoring supplied)

Section 8. "Conduct and Date of Initiative or Referendum.- The Commission shall call and supervise the conduct of initiative or referendum." (underscoring supplied)

[318] COMELEC Resolution No. 2300, Sections 39-42, 26-36, 16 January 1991.

[319] Record of the Constitutional Commission (Con-Com), 391-392.

Fiscal Year 2005, re-enacted for Fiscal Year 2006, which taken together, provide for the appropriation of funds necessary to conduct a plebiscite,[320] the registration of voters,[321] the mechanics governing the verification of signatures[322] and other election procedures.

2. As further discussed above, the opinion and declaration in the Decision dated 19 March 1997 in the case of *Santiago v. COMELEC, G.R. No. 127325*, declaring Republic Act No. 6735 as inadequate, incomplete and insufficient in standard for subordinate legislation, and nullifying COMELEC Resolution No. 2300 issued pursuant to the foregoing statute, must be considered only as a non-binding separate opinion of J. Davide, concurred by C.J. Narvasa, J. Bellosillo, J. Kapunan, J. Regalado, and J. Romero, and not as a binding decision of the Supreme Court En Banc, because upon the reconsideration and final resolution of these matters on 10 June 1997, no majority vote was secured to opine and declare the implementing statute as inadequate, incomplete and insufficient in standard,[323] as only six (6) Justices[324] voted that the implementing statute was inadequate, incomplete and insufficient in standard, while six (6) other Justices[325] voted that the implementing statute was adequate, complete and sufficient in standard, one (1) Justice[326] abstained on these issues, and two (2) Justices[327] inhibited themselves from the proceedings.

3. As finally discussed above, the Resolution dated 23 September 1997 in the case of *PIRMA v. COMELEC, G.R. No. 129754,* dismissing a subsequent petition for initiative, cannot by itself be considered as a binding precedent, because the resolution was based on the alternative grounds of lack of grave of abuse of discretion and res judicata,[328] instead of the specific issues of adequacy and constitutionality of Republic Act No. 6735. The PIRMA petition also did not carry verified signatures, while the present petition carries verified signatures.

---

[320] Republic Act No. 6735, Sec. 21.
[321] Id., Sec. 6.
[322] Id., Sec. 7.
[323] People's Initiative for Reform, Modernization and Action (PIRMA), et al, v. Commission on Elections (COMELEC), et al, G.R. No. 129754, 23 September 1997, Separate Opinion, Francisco, J., p. 9.
[324] Narvasa, C.J., Bellosillo, Davide, Jr., Kapunan, Regalado, Romero, JJ..
[325] Franciso, Hermosisima, Melo, Mendoza, Panganiban, Puno, JJ..
[326] Vitug, J..
[327] Padilla, Torres, JJ..
[328] Supra PIRMA, Separate Opinion, Bellosillo, J., p. 14-18. Id., Separate Opinion, Davide, Jr., J., p. 2-3.

4. Under the premises, it reasonably follows that Republic Act No. 6735 and COMELEC Resolution No. 2300 must be deemed or presumed to be valid and constitutional. Accordingly, it also reasonably follows that the COMELEC en banc is empowered, authorized and mandated, under the constitution,[329] the law,[330] and the implementing rules and regulations,[331] to give due course and determine the sufficiency of a petition for initiative to amend the constitution, order its publication and set the plebiscite.

---

[329] Id, Article IX C, Section 2(1).- "The Commission on Elections shall exercise the following powers and functions: (1) Enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum, and recall…" (underscoring supplied)

[330] Republic Act No. 6735, The Initiative and Referendum Act, Section 2.- "Statement of Policy.- The power of the people under a system of initiative and referendum to directly propose, enact, approve or reject, in whole or in part, the Constitution, laws, ordinances, or resolutions passed by any legislative body upon compliance with the requirements of this Act is hereby affirmed, recognized and guaranteed." (underscoring supplied)

Section 3. "Definition of Terms.- For purposes of this Act, the following terms shall mean:

(a) 'Initiative' is the power of the people to propose amendments to the Constitution or to propose and enact legislations through an election called for the purpose.

There are three (3) systems of initiative, namely:

a.1. Initiative on the Constitution which refers to a petition proposing amendments to the Constitution…

(b) 'Indirect initiative' is exercise of initiative by the people through a proposition sent to Congress or the local legislative body for action…" (underscoring supplied)

Section 4. "Who may exercise.- The power of initiative and referendum may be exercised by all registered voters of the country, autonomous regions, provinces, cities, municipalities and barangays." (underscoring supplied)

Section 5. "Requirements… (b) A petition for initiative on the 1987 Constitution must have at least twelve per centum (12%) of the total number of registered voters as signatories, of which every legislative district must be represented by at least three per centum (3%) of the registered voters therein. Initiative on the Constitution may be exercised only after five (5) years from the ratification of the 1987 Constitution and only once every five (5) years thereafter." (underscoring supplied)

Section 7. "Verification of Signatures.- The Election Registrar shall verify the signatures on the basis of the registry list of voters, voters' affidavits and voters' identification cards used in the immediately preceding election." (underscoring supplied)

Section 8. "Conduct and Date of Initiative or Referendum.- The Commission shall call and supervise the conduct of initiative or referendum." (underscoring supplied)

[331] COMELEC Resolution No. 2300.